

THE MADRAS LEGISLATIVE COUNCIL.

Thursday, the 31st August 1950.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. Deputy Chairman (SRI K. VENKATASWAMI NAYUDU) in the Chair.

JANAB ABDUL LATIF FAROOKHI :—“ Before we proceed with the questions, Sir, I request you to grant us a day for discussing the food situation? ”

DEPUTY CHAIRMAN :—“ After the questions are over, we shall consider that question.”

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Utilization of the by-products of the Sugar Industry.

* 13 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Industries be pleased to state—

(a) whether the attention of the sugar industry has been drawn to the suggestions of the Indian Tariff Board regarding the exploitation of the by-products of the industry such as canetrash, bagasse, pressmud and molasses; and

(b) what steps, if any, the Government intend to take to ensure the proper utilization of these valuable by-products?

THE HON. SRI K. MADHAVA MENON (on behalf of the Hon. Sri C. Perumalswami Reddi) :—“ (a) The Report of the Indian Tariff Board on the continuance of protection to the Sugar Industry is a publication available for sale to the public and the sugar factories would have obtained copies of the Report for their use. It is therefore considered unnecessary to invite the attention of the factories specially to the recommendations of the Board.

“ (b) The Report is under consideration.”

SRI R. SURYANARAYANA RAO :—“ May I know, Sir, that in view of the fact that the recommendations are likely to promote the industrial development of the Province, should not Government take initiative and ask the industries to take up the manufacture of those by-products? ”

THE HON. SRI K. MADHAVA MENON :—“ That is why, Sir, I said, the report is under consideration. Government have called for a report from the Director of Industries on the report of the Indian Tariff Board. Further three factories in the Province are already engaged in the manufacture of by-products out of canetrash, bagasse, pressmud and molasses; and more especially in the shape of making of power alcohol and of bagasse for fuel purposes to save coal. As I said, we have asked the Director of Industries to send his report on the suggestion of the Indian Tariff Board.”

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SRI B. BHIMA RAO :—" Are Government aware that these molasses are being improperly employed for the illicit manufacture of alcohol and a large quantity of it is being consumed in the Hospet area? "

THE HON. SRI K. MADHAVA MENON :—" I think the Hospet factory is permitted to manufacture power alcohol out of molasses; it is quite possible that some quantity of molasses is being misused for illicit manufacture of alcohol, and perhaps when it is found out it will be prevented."

SRI B. BHIMA RAO :—" Sir, Will Government take action to prevent the misuse of such molasses? "

THE HON. SRI K. MADHAVA MENON :—" If the misuse is against law, Government will take necessary action and all proper action will be taken to prevent misuse."

SRI R. SURYANARAYANA RAO :—" Are Government sure that the manufacture of power alcohol has been taken up by any factory in this Province? "

THE HON. SRI K. MADHAVA MENON :—" Yes; three factories have already taken it up."

SRI R. SURYANARAYANA RAO :—" May I know whether there was any understanding arrived at by the Government with these factories in regard to the purchase of power alcohol when it is manufactured, and on that account, manufacture of power alcohol was delayed? "

THE HON. SRI K. MADHAVA MENON :—" I do not know, Sir; I want notice."

Extension of service of the present Registrar of the Madras High Court.

* 14 Q.—JANAB ABDUL LATIF FAROOKHI: Will the Hon. the Minister for Education be pleased to state—

(a) who sanctions extension of service to superannuated Gazetted Officers serving in the Madras High Court;

(b) how many times the services of the present Registrar of the Madras High Court have been extended; and

(c) whether there is any proposal before the Government to give him another extension and if so, on what account?

THE HON. SRI K. MADHAVA MENON :—" (a) The Honourable the Chief Justice of the High Court, Madras.

" (b) No extension of service was granted to the present Registrar of the Madras High Court; he was retired from service on the 15th November 1948 and first re-employed for one year from that date and again for another year from the 15th November 1949.

" (c) In view of the answers to clauses (a) and (b) the question does not arise."

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SRI R. SURYANARAYANA RAO :—“ May I know whether the Hon. the Chief Justice of the High Court is competent to re-employ or give extensions of service to any of the officers employed in the High Court? ”

THE HON. SRI K. MADHAVA MENON :—“ Yes, Sir, the Constitution Act is quite clear on the point.”

Provision for rural housing in the Budget for 1950-51.

* 15 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Prohibition be pleased to state how the Government propose to utilize the provision for rural housing in the Budget for 1950-51?

THE HON. SRI N. SANJEEVA REDDI :—“ The provision made in the budget for rural housing will be utilized for the grant of state loans to housing societies proposed to be organized in villages in pursuance of the scheme sanctioned by Government in April 1950. Under this scheme, separate housing societies will be organized in rural areas, one village in each District being selected for the purpose. State loans will be advanced for the construction of about 20 houses in each village. The maximum amount of loan for each house will be restricted to Rs. 5,000. The societies will borrow money from the Government and pass on the loans to members of societies in instalments for construction of houses for their residence. A provision of Rs. 15 lakhs in the Budget Estimate for 1950-51 has been made as a beginning. Subject to the availability of funds, provision will be made in subsequent years also and the scheme extended to other villages as well.”

SRI R. SURYANARAYANA RAO :—“ May I know whether it is the policy of the Government to encourage construction of small houses to meet the needs of people with small incomes? ”

THE HON. SRI N. SANJEEVA REDDI :—“ That is exactly why we have reduced the maximum loan to five thousand rupees. It may be for a sum of two thousand or three thousand rupees even.”

SRI B. BHIMA RAO :—“ Sir, will Government supply necessary materials for the construction of middle class houses instead of giving them loans? ”

THE HON. SRI N. SANJEEVA REDDI :—“ Materials also are given at controlled rates wherever possible.”

Utilization of the balance of food bonus on the quantities of foodgrains procured in this State.

* 16 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Food be pleased to state with reference to the answer to question No. 87 given on the 7th January 1950, what the proposals of the Government are for the utilization of the balance of food bonus received from the Government of India on the quantities of foodgrains procured in the Madras State?

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THE HON. SRI J. L. P. ROCHE VICTORIA :—“ The Government of India originally sanctioned a sum of Rs. 210.43 lakhs as food bonus to Madras State on the quantities of foodgrains procured during the period November 1947 to February 1949. Out of this, a sum of Rs. 66.63 lakhs was adjusted to meet the losses incurred by this Government on the distribution of foodgrains procured from extra provincial sources in India during the period November 1947 to October 1948 and there was a balance of Rs. 143.80 lakhs pending adjustment. Since March 1949 upto the end of February 1950 a further sum of Rs. 183.92 lakhs has been estimated as due to this Government from the Government of India on the further quantities of foodgrains procured during that period. Thus the total amount available in the bonus fund for adjustment in favour of this State at the end of 1949-50 is estimated at Rs. 327.72 lakhs (143.80 + 183.92). The Government of India have since agreed to adjust from this bonus fund a sum of Rs. 228.67 lakhs representing the estimated total subsidy cost of approved Intensive Cultivation schemes in this State for the year 1949-50. The actual subsidy cost incurred on these schemes during 1949-50 is now being worked out, for the purpose of getting the necessary adjustment made by the Accountant General, Madras. The question of moving the Government of India to permit this Government to adjust the balance available in the bonus fund to the credit of this State against the further losses incurred by this Government on the distribution of food grains imported from extra Provincial Sources during 1949-50 is now engaging the attention of this Government.”

State-aid to Messrs. Mohan Industries, Limited, Tenali.

* 17 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Industries be pleased to state—

(a) whether any State-aid was given to the Messrs. Mohan Industries, Limited;

(b) if the answer to (a) is in the affirmative, the purpose for and the conditions under which the aid was given;

(c) whether the amount sanctioned has been disbursed;

(d) whether the Government satisfied themselves that the conditions of the grant were fulfilled before the amount was disbursed;

(e) whether the Government are aware that there are complaints that in this case the amount was disbursed before the fulfilment of conditions stipulated; and

(f) whether the Government will make a statement setting forth the facts of the case?

THE HON. SRI K. MADHAVA MENON (on behalf of the Hon. Sri C. Perumalswami Reddi) :—“ (a) Yes, Sir.

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“(b) A copy* of the Government Order which contains the particulars is placed on the table of the House.

“(c) Yes, Sir.

“(d) The Government sanctioned the loan subject to certain conditions and it is the duty of the Director of Industries and Commerce to disburse the loan after the conditions are satisfied.

“(e) The Government are not aware of any such complaints; but a reference to such non-compliance was made on 11th August 1949 on the floor of the Assembly by an honourable member of the House in a supplementary question. The question was answered by the Hon. the Minister for Industries at the time.

“(f) In view of the answers given above, the Government do not consider it necessary to make any statement, as suggested.”

SRI B. BHIMA RAO :—“ Sir, was any preliminary test made that this area was suitable for the manufacture of bricks, tiles and so forth? ”

THE HON. SRI K. MADHAVA MENON :—“ The board which sanctioned the loan must have satisfied itself that the necessary materials would be available in that area.”

SRI B. BHIMA RAO :—“ Sir, in Bellary it turned out that the area is not suitable for the manufacture of bricks and tiles subsequent to the giving of the loan by the State; and so, the sum of fifty thousand rupees sanctioned as loan was not utilized.”

THE HON. SRI K. MADHAVA MENON :—“ Sir, the location of this industry is not in Bellary. It is in Tenali; and I think, Tenali is in the Guntur district; so a different place altogether.”

SRI B. BHIMA RAO :—“ But the geological area seems to be the same in both places. ”

SRI R. SURYANARAYANA RAO :—“ May I know when the Government came to know that payment was made without the fulfilment of the conditions stipulated? ”

THE HON. SRI K. MADHAVA MENON :—“ Government came to know that one of the conditions was not completely fulfilled; that is, a personal bond had to be given by the managing director. Government came to know that it was a mere omission. As soon as it was pointed out the firm executed the undertaking for personal liability, and now, all the conditions have been satisfied.”

SRI B. BHIMA RAO :—“ Are Government aware that in several cases, directors have been asked to give as security their own personal property besides the property covered by the company; while in this case, only personal security has been asked and taken? ”

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THE HON. SRI K. MADHAVA MENON :—“ Possibly, in the present case, there was sufficient personal property to cover the entire liability and that was sufficient to satisfy the requirements of the rule.”

SRI R. SURYANARAYANA RAO :—“ May I know what steps the Government take to see that the rules laid down by them are carried out, since it is seen from the present case that certain rules were not observed and may I also know when this was discovered? ”

THE HON. SRI K. MADHAVA MENON :—“ As I said, there was only one condition which was not satisfied when the loan was disbursed, and that was the security bond or the personal liability by the directors. I cannot give the exact date when it was discovered. I can only say that as soon as it was found out the directors were asked to give the security bond and it was given.”

SRI R. SURYANARAYANA RAO :—“ May I know whether Government realize that this attempted grant of loan without fulfilling the conditions is grossly wrong, and may I know what steps have been taken by Government to deal with the officer who was responsible for this? ”

THE HON. SRI K. MADHAVA MENON :—“ It was not such a gross wrong as my friend wants to make out; it was only an omission. And as soon as the directors were informed of it they have executed the security bond. In such cases the head of the department concerned would take necessary action against the officer responsible for such omission.”

SRI R. SURYANARAYANA RAO :—“ May I know whether Government take any pains to see that the conditions laid down by them are fulfilled, that is, in cases like the present. When they entrust their officers with the task of scrutiny, do Government take pains to see that they scrutinize properly; or is it a fact that no action is taken by them unless there is a complaint in this behalf? ”

THE HON. SRI K. MADHAVA MENON :—“ In this particular case it is not a case of an officer's order not being carried out by his subordinate. It is a case of omission. Mistakes sometimes do happen because all of us are human beings. And as soon as the omission was found out, it was rectified.”

SRI R. SURYANARAYANA RAO :—“ May I know whether the factory is now manufacturing bricks and tiles? ”

THE HON. SRI K. MADHAVA MENON :—“ Notice. ”

SRI R. SURYANARAYANA RAO :—“ Have not Government nominated their own director on the board of directors of this factory? ”

THE HON. SRI K. MADHAVA MENON :—“ No, Government nominate their director only in cases where the loan exceeds two lakhs.”

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SRI R. SURYANARAYANA RAO :—" Then may I know what effective steps are being taken by them to see that loans given under State Aid to Industries Act are properly utilized? "

THE HON. SRI K. MADHAVA MENON :—" If there is no nominee of Government on the board it does not mean absence of effective steps. Effective steps are being taken even now. There are rules framed for such cases, and those rules are being observed."

SRI R. SURYANARAYANA RAO :—" Are not the Govern-¹¹⁻¹⁵ment kept informed by the Director of Industries about the work-^{a.m.}ing of the various factories to which State aid has been given? "

THE HON. SRI K. MADHAVA MENON :—" Periodical reports are being received."

SRI R. SURYANARAYANA RAO :—" If that is so, why do the Government say that they do not know whether the Mohan Industries are manufacturing bricks, tiles, etc., or not? "

THE HON. SRI K. MADHAVA MENON :—" I said that standing here and off-hand I could not say as the paper was not available with me."

UNSTARRED QUESTIONS.

Quantity of hydro and thermal electrical energy produced in the State.

1 Q.—**SRI R. SURYANARAYANA RAO** : Will the Hon. the Minister for Public Works be pleased to state—

(a) the quantity of hydro and thermal electrical energy produced by (1) the Government, and (2) private licensees;

(b) what the percentage is of energy supplied to (1) urban and (2) rural areas;

(c) what is the percentage of energy supplied to (i) industry, (ii) irrigation including water-lifting for cultivation purposes, (iii) cinemas, (iv) theatres and (v) lighting purposes, public and private; and

(d) the number of pump-sets for which energy was made available in 1948-49 and 1949-50 by the Government and by the private licensees (districtwar)?

A.--(a)

	1946-47.	1947-48.	1948-49.	1949-50.
(Generation in millions of units.)				

(1) Government Electricity department—

Hydro	..	297.86	356.22	436.77	463.09
Thermal	..	19.79	78.14	132.63	142.71

(2) Licensees—

Hydro	..	..	..	..	..
Thermal	..	91.03	32.92	6.73	6.12

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(b)

	1948-49.		1949-50.	
	Hydro. PER CENT.	Thermal. PER CENT.	Hydro. PER CENT.	Thermal. PER CENT.
Urban ^a	81.0	94.0	82.4	93.4
Rural ..	19.0	6.0	17.6	6.6

(c)

	1948-49.		1949-50.	
	Hydro. PER CENT.	Thermal. PER CENT.	Hydro. PER CENT.	Thermal. PER CENT.
(i) Industry ..	56.0	34.0	58.4	33.0
(ii) Irrigation ..	12.5	1.1	12.0	1.3
(iii) Cinemas ..	0.8	1.0	0.76	1.1
(iv) Theatres ..	0.1	..	0.16	..
(v) Lighting purposes.	12.0	19.0	12.2	19.0

(d)

Serial number and district.	1948-49.		1949-50.	
	Government area.	Licenses' area.	Government area.	Licenses' area.
1 Coimbatore ..	839	37	1,129	41
2 Malabar ..	1	1	1	1
3 The Nilgiris ..	..	1	..	1
4 Madhurai ..	104	7	174	12
5 Ramanathapuram.	32	53	59	68
6 Tirunelveli ..	41	..	82	8
7 Tiruchirappalli ..	30	42	24	90
8 Salem ..	167	10	156	5
9 Tanjore ..	..	20	..	32
10 South Arcot ..	48	194	36	195
11 North Arcot ..	162	74	98	120
12 Chingleput ..	64	43	39	39
13 Chittoor ..	30	45	12	38
14 Madras ..	23	2	60	2
15 Nellore ..	..	..	..	..
16 Cuddapah..	..	..	..	..
17 Anantapur ..	..	..	..	..
18 Bellary ..	..	..	..	1
19 Kurnool ..	..	..	..	..
20 Guntur ..	..	18	..	22
21 Krishna ..	116	1	49	1
22 East Godavari ..	3	..	5	..
23 West Godavari ..	..	..	..	2
24 Visakhapatnam ..	2	2	4	1
25 South Kanara ..	..	..	..	..
Total ..	1,662	550	1,928	679

Distribution of chemical manures.

2 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Agriculture be pleased to state—

(a) the quantities of chemical manures, imported and indigenous, which were available for distribution in the State during 1946-47, 1947-48, 1948-49 and 1949-50;

(b) the quantities allotted to each district or groups of districts (yearwar) and the basis on which such allotment was made;

^a Big mill lands have been classed as urban irrespective of location.

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(c) whether tenders for the distribution of chemical manures were invited, and if so, the names of persons whose tenders have been accepted;

(d) whether the rates tendered were competitive;

(e) whether complaints against any firm or firms entrusted with distribution have been received, and if so, how they have been disposed of;

(f) whether it is proposed to invite tenders for distribution during 1950;

(g) whether the advantage of having a single firm for distribution is being canvassed; and

(h) the rates at which the manures are bought by Government and the margin of profit allowed to distribution?

A.—(a)

	Imported. TONS.	Indigenous. TONS.
I. Ammonium sulphate—		
1946-47 ..	60,800	Nil.
1947-48 ..	48,500	10,638
1948-49 ..	52,500	12,250
a 1949-50 ..	145,800	10,200
		(plus 40 per cent of factories production).
II. Ammonium phosphate—		
1946-47 ..	5,209	Nil.
1947-48 ..	1,500	..
1948-49 ..	400	..
1950 ..	Nil.	..
III. Super-phosphate—		
1946-47 ..	..	1,341
1947-48 ..	..	Nil.
1948-49 ..	..	6,500
1950 ..	..	35,900
IV. Granular ammonium phosphate—		
1946-47 ..	Nil.	..
1947-48 ..	..	..
1948-49 (actually received only in 1949-50).	10,000	..
1950 ..	Nil.	..

(b) It is not feasible to furnish districtwar allotments of fertilizers for the reason that the distribution was required to be made partly as straight fertilizer and

a. The Government of India have since changed the duration of the fertilizer year to the period January to December from July to June.

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partly as manure mixtures as and when demands came in. Hence the allotment for the preparation of manure mixtures was made and supplied to the different manure mixing firms and the quantities that were distributed in the straight form through the departmental depots are furnished separately in the Appendix II^a. The distribution was based on the demands from the respective places, seasonal conditions, the fertility of the soil, the irrigational facilities and the quantities available for distribution. The quantities allotted for the year 1950 are shown in the Appendix II^b.

(c) The system of selecting firms by the tender system for distribution of ammonium sulphate came into operation from the year 1947-48. Prior to that Messrs. Imperial Chemical Industries (India), Limited, Madras, were in sole charge of the work of distribution of chemical fertilizers in this State. In 1947-48, tenders for the distribution of fertilizers were invited from commercial firms and three firms were selected by Government for this purpose. These three firms, viz., (1) Sri Ranga Vilas Ginning and Oil Mills, Coimbatore, (2) Messrs. Lloyds Commercial Corporation, Limited, Madras and (3) Messrs. Imperial Chemical Industries (India), Limited, Madras, were entrusted with the distribution work on a regional basis. In the year 1948-49 the following seven firms were selected by Government :—

1. Messrs. Sri Ranga Vilas Ginning and Oil Mills, Coimbatore.
2. Messrs. Lloyds Commercial Corporation, Madras.
3. Messrs. Sri Rama Agricultural Implements Manufacturing Works, Kumbakonam.
4. Messrs. Sri A. Velayutha Raja, Bank Road, Rajapalayam.
5. Messrs. P. Pavanasa Nadar and Company, Madhurai.
6. Messrs. Rao and Reddi, Mylapore, Madras.
7. Messrs. The Indian Tobacco Corporation, Kilpauk, Madras.

In the year 1950 fresh tenders were again called for and the undermentioned 14 firms were selected by Government :—

1. Messrs. Sri Ranga Vilas Ginning and Oil Mills, Coimbatore.
2. Messrs. Lloyds Commercial Corporation, Mount Road, Madras.

^a Printed as Appendix II on pages 297-298 infra.

^b Printed as Appendix III on pages 298-299 infra.

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3. Messrs. A. Velayutha Raja, Rajapalayam.
4. Messrs. Rao and Reddi, Mylapore, Madras.
5. Messrs. The Indian Tobacco Corporation, Kilpauk, Madras.
6. Messrs. Soundararajan and Company, Govindappa Naick street, Madras.
7. Messrs. P. Ramaswami Gounder and Brothers, Karur.
8. Messrs. A. S. P. Ayyamperumal Nadar, Virudhunagar.
9. Messrs. the Coromandal Corporation, Armenian street, Madras.
10. Messrs. V. S. R. and Company, Madras.
11. Messrs. the Associated Commercial Syndicate, Nidadavole.
12. Messrs. the Chemical Engineering Corporation, Madras.
13. Messrs. Kamadhenu Fertilizers, Madras.
14. Messrs. Sri Nagaiah Choudry, Vijayavada.

Besides these, this year, the co-operative societies in each district have been entrusted with the distribution of chemical manures.

- (d) The rates tendered by the various tenderers were competitive and in some instances unworkable also. Government while appointing the tender firms considered from their previous experience that a commission of less than Rs. 15 a ton was not an economical rate which would assure a fair margin of profit to the distributor, and hence an uniform commission of Rs. 15 per ton was fixed for all the tender firms who were selected for the purpose. For the current year, a commission of Rs. 15 per ton for ammonium sulphate and Rs. 20 per ton for super phosphate has been allowed.
- (e) Complaints were received alleging black-marketing by the tender firms : Messrs. Lloyds Commercial Corporation, Messrs. Indian Tobacco Corporation, Messrs. Rao and Reddi, and Messrs. P. Pavanasa Nadar. These cases were investigated by the Joint Director of Agriculture and by the Criminal Investigation Department Police. As no substantial evidence of the alleged abuse by the firms could be proved, the cases were dropped.
- (f) This has been covered by answer to point (c) above.
- (g) The advantage of having a single firm for distribution was considered by Government previously and was rejected on grounds of being detrimental to fair and equitable distribution.

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(h) As the Government of India, Ministry of Agriculture, is the authority arranging for the purchase of fertilizers both in the Union and abroad, the rates at which they are purchased by the Government of India are not known to this Government. However, they have fixed a pool price of Rs. 325 per ton in the case of ammonium sulphate, and Rs. 207 per ton in the case of super phosphate and at which this Government have been asked to sell the commodities. As explained with reference to item (d) the distributing commercial firms and the co-operative societies are allowed to add a commission of Rs. 15 per ton in the case of ammonium sulphate and Rs. 20 per ton in the case of super phosphate while they sell the stuff to the ryots, which includes all risks and handling charges and incidentals.

Reorganization proposals of the Retrenchment and Reorganization Committee.

3 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Finance be pleased to state—

(a) whether, besides retrenchment, the proposals recommended for reorganization by the Retrenchment and Reorganization Committee have been considered by the Government;

(b) if so, what the decisions of the Government are;

(c) whether proposals for the reorganization of the departments concerned with the development of cottage industries, rural development and the pooling of the Secretariat staff and treating it as one unit, are some of them in respect of which orders have been issued; and

(d) if the answer to (c) is in the affirmative, whether the Government will place these orders on the table of the House?

A.—(a) & (b) Yes; attention is invited to the statement placed on the table of the House with reference to Question No. 6 answered on 23rd December 1949, which showed the action taken by the Government, on the various recommendations of the Committee in regard to retrenchment as well as reorganization.

(c) & (d) Yes; the proposals were not accepted by the Government, but no formal orders were issued in regard to the question of reorganization of the departments concerned with the development of cottage industries and rural development. Orders rejecting the proposal in regard to the pooling of the Secretariat staff and treating it as one unit were issued in G.O. No. 2366, Public (Services), dated 22nd September 1948, a copy of which is placed on the table of the House. ^a

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[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—ALLOTMENT OF A DAY FOR DISCUSSING FOOD SITUATION.

JANAB ABDUL LATIF FAROOKHI :—“ Sir, it is reported in the Press that the Hon. Minister for Food has said that the food situation in the State has improved. I should like to know what the exact position is. Therefore I request you to allot a day for discussing the food situation.”

THE HON. SRI B. GOPALA REDDI :—“ Will it suffice if the Hon. Food Minister makes a statement or does the hon. Leader of the Opposition insist on a discussion? Information on this point is necessary to enable us to arrange the time-table of business of both the Houses.”

JANAB ABDUL LATIF FAROOKHI :—“ Members will like to express their views. Therefore it will be better if a day is allotted for discussion.”

THE HON. SRI K. MADHAVA MENON :—“ We have no objection at all to have a discussion on the food situation. But the difficulty is about arranging the time table of business of both the Houses. The Assembly is meeting to-morrow and also the day after to-morrow. If it will be convenient to you and if it will satisfy the Members, we shall have the food discussion commencing from 2-30 p.m. on Saturday the 2nd September 1950. The House may sit even after 5 p.m. that day if it is convenient.”

JANAB ABDUL LATIF FAROOKHI :—“ We are thankful to the Government for this.”

III.—ADJOURNMENT MOTION *RE* WHOLESALE SEARCH FOR FOODGRAINS BY RATIONING AND POLICE OFFICIALS.

DEPUTY CHAIRMAN :—“ I have received notice of an adjournment motion from Mr. K. Uppi Sahib. It reads as follows :—

‘ The business of the House be adjourned to discuss a definite matter of urgent public importance of recent occurrence, to wit the recent and wholesale searches for foodgrain carried out by the food rationing officers with the aid of the police in a part of the town of Arcot, thereby striking terror in the cultivating rural population not only of the locality but of the whole rural population of the province and its repercussion on food production in general. ’ ”

THE HON. SRI K. MADHAVA MENON :—“ Apart from the question whether the motion can be admitted as an adjournment motion or not, I wish to submit that the discussion on the food situation has been fixed for day after to-morrow, and this subject can very appropriately be discussed then. Therefore there is no necessity for moving this motion.”

JANAB K. UPPI :—“ Sir, it is a matter of striking terror in the minds of the rural population. My adjournment motion refers only to the policy of procurement and not to the food position as a whole. If the motion satisfies the rule and is in order, I submit that it should be taken up.”

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THE HON. SRI K. MADHAVA MENON :—“ I do not go into the question of its admissibility at all. We are going to discuss the whole question of procurement and other aspects of the food problem day after to-morrow. My submission is that there is no purpose in discussing the subject within the limited time of an hour or two allowed for an adjournment motion when the whole food situation is coming up for discussion day after to-morrow.

“ Rule 42 (iv) of the Council Rules says that the motion must not anticipate a matter which has been previously appointed for consideration. The food situation, to which the subject matter of the adjournment motion relates, has already been appointed for consideration day after to-morrow.”

JANAB K. UPPI :—“ A policy which strikes terror in the minds of the people is a serious matter. I want to discuss it and impress on the Government that it should not be continued any longer.”

DEPUTY CHAIRMAN :—“ The subject of the adjournment motion forms part of the food policy. Since the food policy is going to be discussed day after to-morrow, this subject also can be dealt with then.”

IV.—MESSAGE FROM THE ASSEMBLY.

DEPUTY CHAIRMAN :—“ I have to announce to the House that the Hon. Chairman has received messages from the Hon. Speaker of the Madras Legislative Assembly—

‘ (1) transmitting copies of the following Bills as passed by the Assembly in accordance with rule 99 of the Madras Assembly Rules on the 12th August 1950, and signed by him for the concurrence of the Council :—

(a) The Madras Essential Articles Control and Requisitioning (Temporary Powers) Amendment Bill, 1950 (L.A. Bill No. 19 of 1950),

(b) The Madras Co-operative Land Mortgage Banks (Second Amendment) Bill, 1950 (L.A. Bill No. 22 of 1950), and

(c) The Madras Agriculturists' Relief (Amendment) Bill, 1950 (L.A. Bill No. 20 of 1950),

(2) transmitting copies of the following Bills, as passed by the Assembly and transmitted to the Council for their consideration with a certificate that they are Money Bills :—

(a) The Madras Entertainments Tax (Amendment) Bill, 1950 (L.A. Bill No. 23 of 1950);

(b) The Madras Contingency Fund Bill, 1950 (L.A. Bill No. 21 of 1950), and

(c) The Madras City Municipal (Amendment) Bill, 1950 (L.A. Bill No. 24 of 1950).’ ”

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V.—GOVERNMENT BILL.

THE MADRAS ESSENTIAL ARTICLES CONTROL AND REQUISITIONING (TEMPORARY POWERS) AMENDMENT BILL, 1950 (L.A. BILL NO. 19 OF 1950).

THE HON. SRI J. L. P. ROCHE VICTORIA :—“ Sir, I beg to move—

‘ that the Madras Essential Articles Control and Requisitioning (Temporary Powers) Amendment Bill, 1950 (L.A. Bill No. 19 of 1950), as passed by the Assembly, be taken into consideration.’

“ As set out in the Statement of Objects and Reasons, the Government consider that the life of the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1949, which expires on the 30th September 1950 should be continued for a further period of one year, that is, up to and inclusive of the 30th September 1951. Clause 2 is intended to give effect to this object. Clauses 3 and 4 of the Bill seek to bring section 5 of the Act in so far as it relates to the payment of compensation for movable property requisitioned or acquired under the Act, into accord with the provisions of Article 31 (2) of the Constitution.”

DEPUTY CHAIRMAN :—“ The motion is—

‘ that the Madras Essential Articles Control and Requisitioning (Temporary Powers) Amendment Bill, 1950 (L.A. Bill No. 19 of 1950), as passed by the Assembly, be taken into consideration.’ ”

The motion is now before the House for discussion.

* SRI R. SURYANARAYANA RAO :—“ Mr. Deputy Chairman, Sir, when a similar Bill came up before this House in 1949, some of us on this side of the House wanted the Government to examine how far the provisions that they were enacting were necessary for the carrying on the administration. We found then that the Bill was a mere repetition of the previous Bills of the Defence of India Rules. Many of the provisions sought to be re-enacted were practically dead letters before. In bringing forward this Bill, we find that the Government have not examined how far the provisions that they want to re-enact now with the amendments are necessary. There is one such provision in the amendment proposed. May I ask in how many cases the powers of requisition and acquisition have been exercised? Are those powers, especially the power of acquisition, necessary at all? If the power has not been used in the past, why are the Government re-enacting the section and amending it to bring it into line with the Constitution? There are also curious provisions. I do not know how acquisition can be of a temporary character. I can understand requisition being of a temporary character. I read the Land Acquisition Act (Central Act) and the discussion on it. But nowhere did I find reference to ‘ temporary acquisition ’. Suppose a building or a piece of land is acquired temporarily, compensation is settled under the provisions of the Act. When the temporary

[Sri R. Suryanarayana Rao]

[31st August 1950]

period ceases and the Government give back the house or land, is it their contention that the owner should give back the compensation that he has received and take possession of the property? I do not think the Land Acquisition Act or even the word 'acquisition' contemplates that it can be of a temporary character.

"One redeeming feature is clause 3 which proposes to omit sub-section (1) of section 5, thereby providing compensation for acquisition of movable property which is to be governed by Statute and not by the rules framed by the Government.

"The value of the immovable property to be paid is not the market value on the date of the acquisition but the value on the date of the requisition. This is nothing but expropriatory and unheard of legislation. Let us assume that to-day the Government requisition a building for housing a co-operative store, and later on the store brings pressure on the Government to acquire the building for it. The value that the owner will get is not the market value on the date of the acquisition but the value on the date of the requisition. This is very unfair. Even as it is, the Land Acquisition Act is unfair inasmuch as the compensation payable is the value of the land as on the date of the notification under section 4 (1). We had a great deal to do with this section in connection with the acquisition of lands and houses in the Tungabhadra Project area. The lands and houses were notified under section 4 (1) of the Land Acquisition Act in 1941 or 1942 and now the Government want to give compensation based on the value on the date of notification. We have been contending that if a person is deprived of a house or an acre of land, he should be given sufficient compensation to enable him to purchase another house or an acre of land somewhere else for his use or to maintain himself.

11-30
a.m.

"Sir, we have been urging that justice should be done in the case of owners whose properties are to be acquired under this Act and I must acknowledge that the Hon. Minister for Public Works has been very sympathetic and has been trying to get *ex gratia* grants in certain cases, in addition to paying compensation under the Land Acquisition Act. That means that it is not as a matter of right that the landlords or houseowners get reasonable compensation for the properties acquired, but that the Government are pleased to give the *ex gratia* grants. In respect of properties coming within the purview of this bill, perhaps in some cases the houses requisitioned now might be acquired later on and some influence might be brought to bear upon the Government to secure an *ex gratia* grant in addition to the market value on the date of requisition. I do not know how and why this idea of fixing the value of the property as on the date of requisition had entered into the mind of the Government, overriding even section 4 (1) of the Land Acquisition Act. Does it mean that the order of requisition amounts to a notification under section 4 (1) of the Land Acquisition Act? Sir, I am not a lawyer, but I am afraid

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that there may be some legal flaw in this matter and difficulties might crop up later on. I do not know, Sir, whether the Hon. Minister had looked into it, but it seems to me that it is unjust and improper to fix the value from the date of requisition, when acquisition proceedings are started some years hence. Fortunately, Sir, the only redeeming feature of this measure is that it is going to be in force for only one year. But if the Government find it necessary, owing to circumstances beyond their control, they might again come up before this House and also the other House with a request to have the life of this Act extended for another year. I wish, Sir, that this amendment which the Government seek to introduce now, had not been introduced at all, and allowed the Land Acquisition Act to come into operation when they desire to acquire the land.

"Sir, there is another provision in this Bill, about which I should like to have some clarification. The Government are now requisitioning houses for the purpose of locating their offices or even for providing accommodation for their officers. May I know from the Hon. Minister whether the provisions of this Act can be applied, if in case they propose to acquire them later on, and whether such lands and buildings can be acquired permanently, by paying the value as on the date of requisition, even though their value might have appreciated considerably by the time the acquisition proceedings take place. It seems to me, Sir, that this is a most extraordinary piece of legislation which has been brought forward by the Government in order to deprive people of their rights to property. If really the Government want to acquire any property for any public purpose, by all means, let them do so, paying the owners the value that is due to them under the Land Acquisition Act, but not seek to apply this Act, which I am afraid, would inflict a hardship on those owners."

* THE HON. SRI K. MADHAVA MENON :—"Mr. Deputy Chairman, Sir, I think the same point was raised in the other House by my hon. Friend Mr. A. Vaidyanatha Ayyar and was answered by me. In fact, Mr. Vaidyanatha Ayyar's contention was that this Bill was more advantageous to the owners than perhaps the provision under the Land Acquisition Act, in regard to the payment of compensation. Section 5 (d) of the original Act says—

"The arbitrator in making his award shall have regard to—

(i) the provision of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable; and

(ii) whether the acquisition is of a permanent or temporary character :

Provided that where the property requisitioned is subsequently acquired, the arbitrator, in any proceedings in connection with such acquisition, shall, for the purposes of the provisions of the said section 23, take into consideration the market value of the property at the date of requisition and not at the date of its subsequent acquisition.

"Sir, there is no provision for payment of compensation in the case of movable properties in the original Act, and that has been provided for in this Amending Bill. And in fact the other

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provisions in regard to the method of calculating compensation have been retained, and there is practically no difference between the original Act and this Amending Bill in that respect. The present amendment says—

“The arbitrator in making his award shall have regard to—

- (i) in the case of movable property, to its market value ;
- (ii) in the case of immovable property, to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable and to the fact whether the acquisition is of a permanent or temporary character :

Provided that where any property requisitioned is subsequently acquired, the arbitrator, in any proceedings in connexion with such acquisition, shall, for the purposes of this clause, take into consideration, the market value of the property at the date of the requisition as aforesaid and not at the date of its subsequent acquisition.”

“ My hon. Friend Mr. R. Suryanarayana Rao will therefore see that this Amending Bill only seeks to work to the advantage of the owner, because the arbitrator will take not only the provisions of the Land Acquisition Act into consideration, but also the market value of the property on the date of requisition, for arriving at the compensation to be fixed for the property to be acquired. Perhaps my hon. Friend Mr. Suryanarayana Rao might object to the subsequent proviso in this Amending Bill. The same objection was raised by my hon. Friend Mr. A. Vaidyanatha Ayyar in the other House, but he would have noticed that the wording in the proviso is only a verbal alteration and does not in any way change the intention of the original provision. In the amended proviso, the words, “for the purposes of this clause”, have been substituted for the words “for the purposes of the provision of the said section 23” in the original Act. Therefore, Sir, there is practically no difference between the original Act and the amendment, except that the amendment provides for the payment of compensation in the case of movable properties also, which are to be acquired, after they have been requisitioned.

“ Sir, it is true that in certain cases there might be some apparent unfairness, if compensation were calculated on the market value on the date of requisition. The owner might not know that his properties were going to be acquired and subsequently the value of the property might have enhanced or decreased. But the chances are that, in most cases, according to the present conditions the properties might have enhanced in value after the date of requisition. Perhaps it is this point that my hon. Friends Mr. Suryanarayana Rao in this House and Mr. Vaidyanatha Ayyar in the other House want to be clear about, and both of them want that the enhanced value should be paid to the property owners so that they might have the market value as on the date of acquisition and not on the date of requisition. Sir, if that were so, then it would amount to a matter of policy being laid down by the House, that is to say, that the Government would be tying down the hands of the arbitrator to decide compensation

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according to a certain method. As my hon. Friend Mr. R. Suryanarayana Rao has pointed out, under the Land Acquisition Act, after a notification under section 4 (1) has been published, the price on the date of notification shall be the price to be paid as compensation. Now he says that the date of requisition in this case would take the place of a notification under section 4 (1) of the Land Acquisition Act, and therefore it might not be fair to fix the compensation as on the date of requisition, but that compensation should be paid on the market value on the date of acquisition. My answer to him is this. Apart from the question whether the House is to lay down the policy as to what the Government should pay, I think, it is much better that we do not tie down the hands of the arbitrator and tell him that he should calculate compensation in such and such a manner. Therefore, we have simply said that he shall take the market value on the date of requisition into consideration in deciding the compensation to be paid. Of course, he would take various factors into consideration and then only he would decide the amount of compensation. We have said that the market value on the date of requisition should also form one of such factors for him to consider, in arriving at the compensation to be awarded. Sir, it is only right and proper that we should not allow the entire advantage of the unearned income to only one party to the transaction. Because the Government have requisitioned the property on a previous date, and want to acquire it later on, it should not be contended that the entire benefit of the unearned income should go to the owner only. That is the reason why we have said that if that property is to be subsequently acquired, the market value of the property as on the date of requisition should also be taken into consideration, in arriving at the compensation to be paid.

“ Sir, I might mention at this juncture that no concrete case has arisen where properties which had been requisitioned are sought to be acquired by applying this Act. Nor is it the intention of the Government to deprive the owner of his property without paying fair and adequate compensation. My hon. Friend Mr. R. Suryanarayana Rao said that we are requisitioning houses for Government servants or for locating Government offices. I submit, Sir, that he is entirely wrong in thinking so. We are not requisitioning houses with the object of acquiring them at a later date under the Essential Control Articles Control and Requisitioning (Temporary Powers) Act. The nature of control that we are exercising under the Rent Control Act, is only this, viz., that we want to see that priority is given to Government servants when houses fall vacant. We are only stepping into the shoes of a tenant in such cases and not as prospective purchaser of those houses. The landlord still remains the owner and the relation between the landlord and the tenant continues as such. There is no question of acquisition in such cases and the Government will not go out of their way to acquire such houses either for their officers or for locating their offices.

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Even if any such extreme case arises, we have provided in this Bill that the owner should not be deprived of his fair and proper compensation and the arbitrator has been given full discretion to go into all these matters and give his award. With these words, Sir, I once again commend the Bill for the acceptance of the House."

DEPUTY CHAIRMAN :—" The question is —

' that the Bill to amend the Madras Essential Articles Control and Requisitioning (Temporary Powers) Bill, 1950 (L.A. Bill No. 19 of 1950) as passed by the Assembly be taken into consideration.' "

The motion was put and carried.

Clause 2 was put and carried.

Clauses 3 and 4.

* SRI R. SURYANARAYANA RAO :—" Mr. Deputy Chairman, Sir, I move the following amendments standing in my name, namely :—

- ' (1) *In new clause (d) (ii) proposed by clause 3 (ii) (c) omit the words ' and to the fact whether the acquisition is of a permanent or temporary character.*
- (2) *In new clause (d) proposed by clause 3 (ii) (c) omit the proviso.*
- (3) *In clause 4 omit the words ' requisitioned or '.*"

" Sir, the Hon. Minister for Law did not answer my point regarding this temporary or permanent character of the acquisition. He himself has admitted that there might be anomalies and hard cases and therefore perhaps he has not argued in favour of it. I suggest, Sir, that this provision should be omitted altogether. When there is at present an opportunity to rectify what we think is wrong, is it not better that we rectify it here and now instead of leaving it to the discretion of the arbitrator? Sir, by omitting these words ' and to the fact whether the acquisition is of a permanent or temporary character ' in sub-clause 3 (ii) (d) (ii), all that we do is to allow the arbitrator to settle the value of the property under sub-section (1) of section 23 of the Land Acquisition Act. Sir, if, according to my amendments, this and the next proviso are also omitted, it comes to this that the mere fact that the land or the building had been requisitioned does not entitle the Government to have the property acquired without a notification under section 4 (1) of the Land Acquisition Act. What I want is that all the procedure laid down in the Land Acquisition Act should be gone through, when the Government decide to acquire the property, whether it is land or building, because when the land or building is requisitioned, the owner knows that it is only for a temporary period and that he

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would be put in possession of the same as soon as the necessity for such requisition ceases. But in this case, after some time, the Government, all of a sudden, make up their mind to acquire the property under this Act and not go through the process laid down in the Land Acquisition Act. That I submit, Sir, is unfair.

“Secondly, Sir, I cannot understand what is the meaning of the term ‘temporary character of the acquisition’. My Hon. Friend the Minister for Law did not explain it clearly. The Government acquire the properties, pay compensation, whether it is the value on the date of requisition or on the date of acquisition, and then the properties pass into the hands of the Government. Then what is meant by temporary acquisition? I have not come across instances where they have temporarily acquired or felt the need for temporary acquisition. I can understand if they can give instances. I think it will be fair to everybody to take out this temporary character. What will the courts who have to interpret this think of us? We see that the courts are not favourably disposed to our legislatures. It is our duty to see that any legislation that we pass is just, fair and consistent with certain principles and procedure that we follow. I feel, Sir, that the Government will be well-advised to accept this amendment, and allow the ordinary courts of law to function.

11-45
a.m.

“The proviso to this clause is practically restricting the discretion of the arbitrator. The words used are ‘shall for the purpose of this clause’. The Hon. the Minister for Law stated that it was only a direction, and that the arbitrator was not bound to be guided by it. But the words used in the proviso are ‘shall’ for the purpose of this clause, take into consideration . . .”

THE HON. SRI K. MADHAVA MENON:—“It is only ‘shall take into consideration’.”

* SRI R. SURYANARAYANA RAO:—“What does it mean? The arbitrator naturally will first ascertain the value on the date of requisition, and if the party wants him to take into consideration the market value at the time of acquisition, he is not bound to do so. He will simply say that the statute requires ‘shall take into consideration the market value of the property at the date of the requisition’, and he will pass the award. I think, Sir, that proviso should be dropped. I do not deny the right to Government to requisition or acquire properties when they are needed for public purposes. All that I want is that the persons who are affected by such acquisition should be dealt with fairly. I think that it is fair that we the Members of this House, whatever may be the views of the Government on this, should be fair to all parties affected by the provisions of this Bill.

“Sir, I move my amendments.”

SRI M. JAGANNATHAM:—“I second the amendments, Sir.”

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* THE HON. SRI K. MADHAVA MENON :—“ Sir, with regard to the first amendment proposed by the hon. Member Sri R. Suryanarayana Rao, I wish to say that the only contingency that the Government can think of in the case of a temporary acquisition is that, after the period is over, the party, from whom the property was acquired, is entitled to take it back. But if it is a permanent acquisition, the Government after acquiring it can do anything they like with it. But what has been provided in this clause is that, whether it is temporary acquisition or permanent acquisition, the value should be the market value. I cannot exactly now visualize the contingencies where there should be temporary acquisitions for a particular period or permanent acquisitions. I can certainly visualize cases under the Land Acquisition Act, whether the acquisition is temporary or permanent in character. Even if it is temporary acquisition, the value should be paid according to the Land Acquisition Act. But if it is temporary acquisition, after the end of the period, the party will be entitled to get the property back. I cannot conceive of any other meaning than this. If temporary acquisition is not provided for, the party cannot get back the property. I do not see any particular difficulty if the amendment is accepted but there is this danger that all acquisitions will become permanent, and the parties will not be able to get back their properties after the period for which they were required by the Government. Here it is only a sort of pre-emption in legal parlance. If it is only a temporary acquisition, the party has got a right to get it back after the purpose is served. That is the only necessity to say permanent and temporary.

“ Regarding the other amendment, I have exhaustively dealt with it in my original remarks. We must be fair to all parties concerned. Take for instance that a particular property was requisitioned. At the time of requisition the market value of the property was only Rs. 1,000. At the time of acquisition the value has gone up to Rs. 2,000. The proviso as it stands does not prevent the arbitrator from giving him Rs. 2,000. He can give any amount between Rs. 1,000 and Rs. 2,000. The proviso says that he ‘shall take into consideration what the value of the property was’. The value of the building was only Rs. 1,000 at the time it was requisitioned. Subsequently, due to various reasons the value has increased to Rs. 2,000. It is open to the arbitrator to give the entire unearned income to the party. It is only a discretion or latitude given to the arbitrator to consider the market value of the property at the time it was requisitioned. He may take this also into consideration. I still maintain that the proviso does not say ‘shall pay’ the market value at the time it was requisitioned. If that is the wording, I can understand the argument of the hon. Member Mr. Suryanarayana Rao. That is not the wording. The wording is ‘shall, for the purpose of this clause, take into consideration the market value. . . .’ My hon. Friend would be right if the wording is ‘shall pay’. But it is not

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so. In fixing the value of the property, there are so many things to be taken into consideration, and the market value at the time of requisition, is one of those considerations. If the enhancement in price is not entirely due to any effort on his part, the arbitrator need not necessarily pay the market value on the date of acquisition or the market value at the time of requisition. Therefore, Sir, there is no necessity to accept the amendments. I oppose the amendments."

* SRI R. SURYANARAYANA RAO :—" Is not the purpose of requisition served by temporary acquisition? "

* THE HON. SRI K. MADHAVA MENON :—" There will be difficulty. In requisition, the limit within which the Government can use the property or alter it or make changes in it, is much less than in the case of acquisition."

* SRI R. SURYANARAYANA RAO :—" What is to become of the temporarily acquired property? If it is to be restored to the party, is the party, who receives compensation under this Bill, to pay back the amount of compensation he has received? So many difficulties will arise out of this proviso. I do not know how the Government do not envisage all this. To-day the Government may acquire a property temporarily. Later on they may not require it. As soon as it is acquired, the party is entitled to compensation. (The Hon. Sri K. Madhava Menon : ' Yes '.) When the Government do not need the property, and hand it over to the party, they will ask him to pay back the compensation. All kinds of difficulties, which the court alone could envisage will arise. I think, Sir, the words ' temporary character ' should be omitted. If the Government acquire any property, let them acquire it permanently. After all, they can sell it to others, when they do not need it, and make money out of it. Various difficulties will arise on account of this ' temporary character '."

THE HON. SRI K. MADHAVA MENON :—" I really cannot understand the argument of the hon. Member Mr. Suryanarayana Rao. If the party wants the property back, he has to pay back the compensation."

SRI R. SURYANARAYANA RAO :—" You call it ' temporary character ' anyhow."

THE HON. SRI K. MADHAVA MENON :—" The very distinction between permanent and temporary is that after the period for which the property is required, the party will be entitled to get it back."

DEPUTY CHAIRMAN :—" The question is—

' (1) In new clause (d) (ii) proposed by clause 3 (ii) (c) omit the words " and to the fact whether the acquisition is of a permanent or temporary character ".

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In new clause (d) proposed by clause 3 (ii) (c) *omit* the proviso.

‘ (2) In clause 4 *omit* the words “ requisitioned or ”.’

The amendments were put and lost.

Clauses 3 and 4 were put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI J. L. P. ROCHE VICTORIA :—“ Sir, I move—

‘ *that the Madras Essential Articles Control and Requisitioning (Temporary Powers) Amendment Bill, 1950 (L.A. Bill No. 19 of 1950), as passed by the Assembly, be passed* ’.”

DEPUTY CHAIRMAN :—“ The motion is—

‘ *that the Madras Essential Articles Control and Requisitioning (Temporary Powers) Amendment Bill, 1950 (L.A. Bill No. 19 of 1950), as passed by the Assembly, be passed* ’.”

The motion was carried.

VI.—ANNOUNCEMENT *RE* MONEY BILLS—CHAIRMAN'S FINDINGS.

DEPUTY CHAIRMAN :—“ Before we proceed to the next item on the agenda, I have to make the following announcement on behalf of the Hon. Chairman regarding Money Bills, because the next Bill on the agenda is a Money Bill. The following findings are given by the Hon. Chairman regarding Money Bills :—

‘ (1) In the case of Money Bills also as in the case of other Bills, there ought to be three readings.

(2) If at the stage of second reading any recommendations or amendments to various clauses are approved by the House, the appropriate motion for the third reading will be as follows :—

“ I move that the Bill be returned to the Legislative Assembly with the following recommendations. ”

(3) If there are no recommendations, the appropriate motion for the third reading will be ‘that the Bill be read a third time and passed’.

(4) It is incumbent on the Government to take the Bill through all the three stages and make the appropriate motions if they want to proceed with the Bill. It will not be open to them to refuse to make the appropriate motion.’

“ The reasons for these motions will be given later.”

THE HON. SRI B. GOPALA REDDI :—“ Was this discussed at the Speakers' Conference? ”

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DEPUTY CHAIRMAN:—"It was discussed at the Speakers' Conference."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"Then what happens to the Bill that was passed at the last session?"

VII.—GOVERNMENT BILLS.

- (1) THE MADRAS ENTERTAINMENTS TAX (AMENDMENT) BILL, 1950
(L.A. BILL NO. 20 OF 1950).

THE HON. SRI B. GOPALA REDDI:—"Sir, I move—

'that the Madras Entertainments Tax (Amendment) Bill, 1950 (L.A. Bill No. 20 of 1950), as passed by the Assembly and transmitted to the Council, be taken into consideration.'

12
noon.

"Sir, last year we passed the Cinematographs Tax Act and it was to be in force only for a year. That year has expired by the end of July. So, we had to issue an Ordinance to keep it alive pending the decision of the Legislature. This Bill seeks to give the Bill a life of four years from the date of its commencement. Already one year is over and for three more years we are seeking to keep it alive.

"As hon. Members are aware, the Act contemplates a show tax on every cinema show exhibited in the city and in the Municipalities—Rs. 2-8-0 for every show in the city, Rs. 2 for every show in first and second-grade municipalities, Rs. 1-8-0 for every show in third-grade municipalities and Re. 1 for every show in major panchayats with a population of not less than 10,000. There was a fear last year when we brought forward this legislation that it might seriously affect the cinema theaters altogether because the Government of India were coming forward with their measures and they were also collecting some money from the theatres. So, we want it to be in force for only a year. Now we find there is no serious detrimental effect on the cinema shows. On the other hand, our entertainments tax is on the increase. We got about 3 lakhs of rupees last year and we expect to get about 5 lakhs of rupees this year if this Bill is allowed to go through. There was also not much of serious opposition except a very formal resolution by the Film Chamber. Therefore, it is only a very small thing. The Government would get about 5 lakhs in a year and it is not an inconsiderable sum seeing that we are not in a very happy position just now. Therefore, I request that the House may give its approval for continuing it for three more years. We have been accustomed to it for the last one year and we may continue it for another three years."

DEPUTY CHAIRMAN:—"The motion is—

'That the Madras Entertainments Tax (Amendment) Bill, 1950 (L.A. Bill No. 20 of 1950), as passed by the Assembly and transmitted to the Council, be taken into consideration.'"

[31st August 1950]

DR. A. LAKSHMANASWAMI MUDALIYAR:—"Sir, the Hon. the Finance Minister has stated that this Entertainments Tax has given him an yield of over 3 lakhs of rupees last year and surely it will gradually increase because whether it is sales tax or entertainments tax, it grows by geometrical progression and that is the reason why I appeal to him on this occasion to extend his sympathy to certain associations which are now heavily taxed and which are now not in a position to fulfil their objects. The Hon. Finance Minister has recently stated that dramatic performances will be exempt from the entertainments tax so as to further the art of dramatization. I venture to put forward a plea that he will take a similar sympathetic attitude in regard to tournaments that are conducted by athletic associations. The Hockey Association, the Football Association, the Cricket Association and certain other athletic associations are being heavily taxed with regard to entertainments. I have here figures to show that these associations are sometimes in great deficit. The members of these associations are not profit-making members. The whole of the amount that is got by the tournaments is utilized, if there is any balance at all which is nil more often than not, for the furtherance of the very object of promoting athletics, physical welfare and team spirit in the youths of the country. I do not think there can be any better purpose than that to show that the Government would be doing a very helpful thing in promoting athletics if they were to see their way to exempt them from payment of this tax. I see, Sir, that section 8 of the Entertainments Tax Act says that the Provincial Government may by general or special order exempt any entertainment or class of entertainments from its liability to the entertainments tax. I am not asking the Hon. the Finance Minister to give me a definite promise but I would request him, and I hope the House will support me in that request, that when these Associations come and see him and wait in deputation on him, he may take into consideration all the facts of the case and subject to such reasonable safeguards as may have to be enforced, see that the entertainments tax is not imposed upon associations which are not profit-making concerns but which are definitely for the improvement of the physical culture of the youths of the nation.

"The Hon. Minister need not be frightened that it will relieve him of a large amount of income to the State. I would only ask him to consider the possibility of another form of tax. In List II to the Constitution, you will find that there is provision in item 55 enabling the State Government to tax advertisements which are a common feature of most entertainments. I would ask the Government to take that power in two ways to tax the advertisements and also to impose penalties for those advertisements which are pasted on every person's property except perhaps that of the person who advertises. This disfigurement of the walls of the City of Madras in most places is a disgrace. Instead of making the City beautiful, we are making it horrible, by the pasting of advertisements on Government walls, private landholders' buildings and everywhere. In that connexion, I was very sorry to hear from the

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Hon. Chairman of the Standing Finance Committee of the Corporation of Madras that all that the Corporation was doing was to collect some tax from those people for their advertisements; they never worried whether these advertisements were pasted in proper places or not. I have been visiting many cities and I can tell you that there is no place outside probably our own country where such advertisements are tolerated. There are special boards for advertisements and special rates for fixing or pasting these advertisements and if only the Government will take up that particular step, in right earnest, they will be saving a great deal of disfigurement and a great deal of the loss of the landlord who has to remove those advertisements and whitewash his buildings. I think from that point of view the Hon. the Finance Minister will get a much better income by this sort of taxation as well as by way of penalty for pasting these advertisements on properties. In any case, I hope he will give a sympathetic hearing when a deputation waits on him in regard to relief from entertainments tax for those associations which promote athletics, sporting events and the physical welfare of the youths of the country."

THE HON. SRI B. GOPALA REDDI :—“Sir, this is a very simple tax on cinema shows and it does not touch the main structure of the entertainments tax at all. Anyway the hon. Gentleman has raised a very pertinent question and he has appealed to the Government to sympathetically consider the case of athletic associations. Sir, the athletic associations themselves do not pay the entertainments tax. Those who go and frequent these cricket matches or hockey matches are being asked to pay and not the associations. The question now arises whether those people who go and witness these matches can afford to pay these 2 annas in a rupee as entertainments tax or not. Therefore, it is a question which has to be considered very deeply, of course, with a little sympathy. But what I can say is that those who go to these matches can certainly afford to pay this small little entertainments tax and it is not the Associations that are being asked to pay but they are being asked to collect it from the people and pass it on to the Government.

“That apart, only recently we had a wrestling match in the Corporation Stadium. I think the hon. Gentleman is also referring to wrestling matches and things like that. I asked my officers what the amount that they had collected by way of entertainments tax was. We got about Rs. 14,000 in a single show. Thousands of people with great enthusiasm throng to see a wrestling match. There is so much of excitement and tension and they do not mind paying this small entertainments tax while they witness a very thrilling wrestling match or boxing match. So, let them pay as they go. That is the slogan and I think it will not be a very bad slogan either. Anyway it is a matter to be considered. Sometime ago the Cricket Association enjoyed a little exemption. I did not see why this association should have this exemption and it had to be withdrawn last year. When all the other associations are not getting it, there is no point in giving exemption to this particular

[Sri B. Gopala Reddi] [31st August 1950]

association. Anyway, I shall certainly consider the matter very sympathetically. Of course, it raises a very fundamental issue. Recently a deputation of circus promoters waited on me. They said that they had to maintain a large number of tigers and wild beasts and feed them and that the cost of feeding had gone up tremendously and that they were being asked to pay the full entertainments tax. They pleaded for some concession on rationed articles. But they are enjoying concessional rate; they wanted complete exemption. If we go on in that manner, perhaps we may not be getting much from the entertainments tax. After all, this tax goes to the local bodies. It does not go directly into the Government coffers. We will be depriving the local administrative units of the little income that they are getting from the entertainments tax if we go on exempting.

"With regard to taxing advertisements, last year we attempted to levy tax on advertisements including advertisements in newspapers and there was a big opposition to it. Ultimately the Constitution came in the way and that item was included in the Union List. So, the States were deprived of that source of revenue. When newspaper and newspaper advertisements had been left out, we thought tax on other advertisements would not fetch us much because there is not much of a regular, organized advertisement system in our country and it is not much of an industry worth mentioning. Except the cinema advertisements, there is not much of a business advertisement in the proper sense and we will not be getting anything substantial. So, the time for considering the levy of an advertisement tax is not come, I think.

"With regard to disfigurement, I think it is for the municipalities to tackle this problem of disfigurement which makes the city 'horrible'. If they want more powers, they can certainly ask for them and we shall vest in them those powers and see that the indiscriminate pasting of advertisements does not occur in our cities.

"With regard to the amendment, in this Bill there is nothing else to say. As I said, there is not much of an opposition. Even the theatre owners themselves do not mind paying this tax and we are getting about 5 lakhs of rupees in a year."

DEPUTY CHAIRMAN :—"The question is—

'that the Madras Entertainments Tax (Amendment) Bill, 1950 (L.A. Bill No. 20 of 1950), as passed by the Assembly and transmitted to the Council, be taken into consideration'."

The motion was carried.

Clauses 2, 3 and 1 and the Preamble were then put and carried.

THE HON. SRI B. GOPALA REDDI :—"Sir, I now move—

'that the Madras Entertainments Tax (Amendment) Bill, 1950 (L.A. Bill No. 20 of 1950), be passed'."

DEPUTY CHAIRMAN :—"The question is—

'that the Madras Entertainments Tax (Amendment) Bill, 1950 (L.A. Bill No. 20 of 1950), be passed'."

The motion was carried.

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(2) THE MADRAS CONTINGENCY FUND BILL, 1950 (L.A. BILL
NO. 21 OF 1950).

THE HON. SRI B. GOPALA REDDI :—“ Sir, I move—

12-15
P.M.

“ *that the Madras Contingency Fund Bill a, 1950 (L.A. Bill No. 21 of 1950), as passed by the Assembly and transmitted to the Council, be taken into consideration* ’.”

“ I think the hon. Members will welcome this piece of legislation for creating a Contingency Fund of one crore of rupees. According to this, we will be asked to keep our expenditure not provided in the budget within that limit. Previously, Sri Suryanarayana Rao was complaining that we were bringing forward many supplementary demands going up to crores of rupees and sometimes even to 9 or 10 crores of rupees. He was also complaining that we were bringing forward such demands before the House at the end of the year after having incurred the expenditure. But hereafter, after the Contingency Fund is created, whatever is spent without a provision in the budget will be taken from this Fund and it will never exceed 100 lakhs. Every time we spend something, we will have to come before the House and ask that amount to be replenished so that we may always keep 100 lakhs as a permanent sum. Sir, I may say that this is only an advance of particular sums to Government in respect of which no budgetary provision could be made; and the earliest opportunity will be taken to get the approval of the House in the matter. I trust that the hon. Members are aware that in the Union Parliament also, a similar piece of legislation was undertaken creating Rs. 15 crores as permanent advance to the Government. Here, we have undertaken legislation to create a modest sum of Rs. 100 lakhs and I think the House will give its approval.”

DEPUTY CHAIRMAN :—“ The motion is—

‘ *that the Madras Contingency Fund Bill, 1950 (L.A. Bill No. 21 of 1950), as passed by the Assembly and transmitted to the Council, be taken into consideration* ’.”

The motion was carried.

DEPUTY CHAIRMAN :—“ Since there are no recommendations, I will now put the clauses to the vote of the House.”

Clause 2 was put and carried.

Clause 3 was put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI B. GOPALA REDDI :—“ Sir, I move—

‘ *that the Madras Contingency Fund Bill, 1950 (L.A. Bill No. 21 of 1950), as passed by the Assembly and transmitted to the Council, be passed* ’.”

DEPUTY CHAIRMAN :—“ The motion is—

‘ *that the Madras Contingency Fund Bill, 1950 (L.A. Bill No. 21 of 1950), as passed by the Assembly and transmitted to the Council, be passed* ’.”

The motion was carried.

[31st August 1950]

(3) THE MADRAS CO-OPERATIVE LAND MORTGAGE BANKS (SECOND AMENDMENT) BILL, 1950 (L.A. BILL NO. 22 OF 1950).

THE HON. SRI K. CHANDRAMOULI :—" Sir, I move—

'that the Madras Co-operative Land Mortgage Banks (Second Amendment) Bill, 1950 (L.A. Bill No. 22 of 1950), as passed by the Assembly, be taken into consideration.'

" Sir, at present there is no provision in the Madras Co-operative Land Mortgage Banks Act, 1934, for the issue of certified copies of documents obtained and kept by land mortgage banks in the course of their business or of any entries in such documents, for purposes of evidence in courts. When original documents have to be produced before Courts, it involves trouble and inconvenience and also delay which occurs in the return of documents by the Courts. Hence the Bill that is brought forward now provides for the grant of copies by the Bank of original documents obtained and kept by it in the course of its business, or of any entries in such document and also for the admissibility in evidence of such copies certified in the prescribed manner similar to what is contained in sub-section (3) of section 29-A of the Banks Act in respect of documents produced under sub-section (1) or (2) of that section. So, the Bill is very simple and non-controversial. Hence, I commend it for the consideration of the House."

DEPUTY CHAIRMAN :—" The motion is—

'that the Madras Co-operative Land Mortgage Banks (Second Amendment) Bill, 1950 (L.A. Bill No. 22 of 1950), as passed by the Assembly, be taken into consideration '."

SRI B. BHIMA RAO :—" Sir, I am generally in support of the Bill. But my only complaint is that it has not gone far enough. No doubt, it is very inconvenient for the authorities of the Land Mortgage Banks as well as the litigants to summon for the production of the original registers and documents and take certified copies therefrom, produce the certified copies and then ask for the return of the Land Mortgage Banks Registers. Sir, you as an Advocate, are conversant with the difficulties of not only the authorities of the Bank but also the members of the general public. Recently, I had myself a case in this month in which I had to summon for the originals of registers and prove the various entries by persons who made them in 1941, 45 and 48 and who were different persons. When the Land Mortgage Bank wanted the registers back, it had to produce certified copies and then take them back, and I may tell you that it took nearly one month in spite of best efforts. Surely, this is disadvantageous not only for the authorities of the Banks, but also for the public. Sir, my complaint is that the Bill must have gone further. The extracts must be treated as extracts of any Bank Register and must be received in evidence without any further proof as in the

31st August 1950] [Sri B. Bhima Rao]

case of the Bankers Book Evidence Act. Here, I find that it is limited for the purpose of replacing the original. How could the litigant prove the original produced in Court? So, the same difficulty that is experienced at present will come up again. I am pointing out these to the Hon. Minister so that he could minimise these difficulties and bring in a further amending Bill to make it admissible as in the case of the extracts of the Bankers books and make it evidence for all purposes without any further proof."

DEPUTY CHAIRMAN :—" The question is—

' that the Madras Co-operative Land Mortgage Banks (Second Amendment) Bill, 1950 (L.A. Bill No. 22 of 1950), as passed by the Assembly, be taken into consideration '."

The motion was carried.

Clauses 2 and 1 were put and carried.

The Preamble was put and carried.

THE HON. SRI K. CHANDRAMOULI :—" Sir, I move—

' that the Madras Co-operative Land Mortgage Banks (Second Amendment) Bill, 1950 (L.A. Bill No. 22 of 1950) be passed '."

DEPUTY CHAIRMAN :—" The question is—

' that the Madras Co-operative Land Mortgage Banks (Second Amendment) Bill, 1950 (L.A. Bill No. 22 of 1950), be passed '."

The motion was carried.

(4) THE MADRAS AGRICULTURISTS' RELIEF (AMENDMENT)
BILL, 1950 (L.A. BILL NO. 23 OF 1950).

* THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

' that the Madras Agriculturists' Relief (Amendment) Bill, 1950 (L.A. Bill No. 23 of 1950), as passed by the Assembly, be taken into consideration.'

" We made certain amendments to the Agriculturists' Relief Act about two years ago. Certain difficulties have been found in the working of the Act and hence the present amendments are brought forward. Though, the amendments as circulated, may appear to be rather big, I may say that I have put the amendments in the proper place. The amendments are two in principle. One is that, under Explanation III to section 8 of the Madras Agriculturists' Relief Act, 1938, as it now stands, includes not merely the case where there is no change in the identity of the debtor or creditor or where the change is only an apparent one cloaking benami transactions but also the case where an independent loan is raised for the purpose of discharging a previous loan

[Sri K. Madhava Menon] [31st August 1950]

and having no other connexion whatever with it. To regard such an independent transaction as a renewal of the original loan will give rise to considerable hardship. Of course, this was raised on the last occasion when I moved the amendment, that such a contingency might come. Now that it has arisen, we have taken steps to rectify it. It is not fair if an independent loan is taken to discharge a prior debt which may be treated as renewal of the original loan. So it is necessary to exclude such transactions from the purview of the Explanation. That is one amendment that I have to move. The other amendment is with regard to cases where the original debt is split up among the heirs, legal representatives or assigns of a debtor or creditor. As at present, the Act is not applicable to such cases. Sir, it is only fair that as long as it is part of the original debt, whether it is split up or not, the Act should be made applicable. It will cause considerable hardship if a debt, merely by reason of its having been split up is to be regarded as not covered by the Act. To remove this hardship, I have brought forward the second amendment. The third amendment is with regard to the usufructuary mortgages. At present, usufructuary mortgage means 'any mortgage by virtue of which the mortgagee is in possession of the property mortgaged, where no rate of interest is stipulated as due to the mortgagee.' A question has now arisen in this connexion. We, lawyers are able to find loopholes in the many Acts that are passed. For instance, suppose there are 100 items of property. Of these, 50 are given possession of and the other 50 are held as hypotheca. The point is whether these are usufructuary mortgages or hypotheca. The High Court has held that such cases are not usufructuary mortgages as part of the property is held as hypotheca and part as usufructuary mortgages. The present Act would not apply in such cases as they are neither complete hypotheca nor complete usufructuary mortgages. My point is that even where a part or portion of the property has been in possession of the mortgagee, the Act should be made applicable. Again, the existing provisions do not include cases where the mortgage provides for the payment of interest either in respect of a subsidiary liability incurred by the mortgagee or in respect of the principal amount secured by the mortgage or any portion thereof, over and above the usufruct from the property. These are some of the difficulties experienced in the actual working of the Act and which were pointed out by Mr. Karanth and others in their areas. Therefore, I have brought forward the third amendment to remove the difficulties that I have just now mentioned so that the Act could include the case of a mortgagee who is in possession of a portion only of the property, the other portion of which might have been hypothecated."

DEPUTY CHAIRMAN :—"The motion is—

'that the Madras Agriculturists' Relief (Amendment) Bill, 1950 (L.A. Bill No. 23 of 1950), as passed by the Assembly, be taken into consideration'."

31st August 1950]

SRI B. BHIMA RAO :—" Sir, I support this Bill and want to say a few words while doing so. With regard to the points mentioned by the Hon. Minister, we felt the difficulties even on the last occasion. We felt in the case of persons who have got the interest of the poor agriculturists at heart, why should their debts be scaled down. This seemed to be quite unjust. Some of us referred to this even then. But somehow, the amendment as it then stood was carried by the Legislature. The unreasonableness of this was pointed out by the High Court at least now and we are rectifying it. I am quite glad about this.

" Now, Sir, with regard to the other, the case of usufructuary mortgage, my complaint is similar to the one I made with regard to the former one. It does not cover all the cases. As a lawyer, you must be aware of some transactions, originally by way of simple mortgage providing for some rate interest, in which, after a certain period the debtor finding himself unable to pay the debt makes a fresh arrangement with the creditor for the discharge of the debt. He tells the creditor, ' I shall place my property in your possession, you enjoy the usufruct thereof till the debt is discharged and then give back all the property to me '. Such cases are quite common in the district in which I practise and I believe some of my friends from the Andhra Desa will support me in that statement. Originally, it will be a simple mortgage. After a term, say five or six years, the creditor finds that the debtor does not have sufficient other resources to discharge the liability and so insists upon the buildings and other properties being placed in his possession till the debt is completely wiped out. This is done verbally and there is no written document, much less a registered document, to prove this arrangement. This kind of arrangement goes on for twenty years and thirty years. If there is a case wherein there is evidence of mortgage for 20 years, then the debt will be proportionately reduced and on payment of the balance the debtor is entitled to get back his property. But if such cases as I have mentioned which are frequent in occurrence, are taken up, what is the remedy? Sir, kindly look into the provisions of the Bill and see whether it covers transactions of such a kind. I am making this suggestion—I do not want to move an amendment—to the Bill of Hon. the Minister for Law. Let my Hon. Friend modify the terminology so that it may include transactions of this nature, which frequently come up before the Courts, and provide for a contingency like that. I am convinced that the amendment proposed to section 9 (A) of the Act will not be much helpful. I would therefore, recommend to the Hon. the Minister in charge of this Bill that instead of bringing in another amendment later on to cover such cases he may incorporate my suggestion in the present Bill itself."

12-30
p.m.

SRI T. PURUSHOTHAM :—" Mr. Deputy Chairman, Sir, I entirely agree with my hon. Friend, Mr. Bhima Rao in his remarks. In the Circars, there are several such cases in which the creditor is in possession of the land and he enjoys the income therefrom. But the property is not returned to the debtor even

[Sri T. Purushotham] [31st August 1950]

after the fulfilment of the conditions of mortgage by him. Some provision must be made to meet such cases so that justice may be done to the affected persons."

* THE HON. SRI K. MADHAVA MENON :—" Mr. Deputy Chairman, Sir, my hon. Friend, Mr. Bhima Rao said that though he supported the Motion he was afraid there might be another loophole in the Bill which, as I have understood him, is this—that though a mortgage may appear as a simple mortgage at first, after a few years, it may be converted into a usufructuary mortgage and that it will not come within the purview of the Bill. I am unable to agree with him. If it is a case of a simple mortgage converted into a usufructuary mortgage, then it will fall within the definition of a renewal of a document and the nature of the document may be changed. So in the case of usufructuary mortgages the provisions in the Act relating to them will apply, viz., the provisions of Section 9 (A) of the Act as will be amended if this Bill is passed into law. In the case of simple mortgages the other provision, viz., reduction of interest to five per cent as long as the mortgages remain simple ones, will apply. So, I do not see any difficulty as is mentioned by my hon. Friend Mr. Bhima Rao. Anyhow, I may say that I shall examine his suggestion also if a contingency is likely to arise and take all possible steps to meet the situation."

DEPUTY CHAIRMAN :—" The question is—

' that the Madras Agriculturists' Relief (Amendment) Bill, 1950 (L.A. Bill No. 23 of 1950), as passed by the Assembly, be taken into consideration '."

The motion was carried.

Clauses 2, 3, 4, 5, 6, 7, 8 and 9 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

' that the Madras Agriculturists' Relief (Amendment) Bill, 1950, be passed '."

DEPUTY CHAIRMAN :—" The question is—

' that the Madras Agriculturists' Relief (Amendment) Bill, 1950, be passed '."

The motion was carried.

(5) THE MADRAS CITY MUNICIPAL (AMENDMENT) BILL, 1950
(L.A. BILL NO. 24 OF 1950).

THE HON. SRI K. CHANDRAMOULI :—" Mr. Deputy Chairman, Sir, I move—

' that the Madras City Municipal (Amendment) Bill, 1950 (L.A. Bill No. 24 of 1950), as passed by the Assembly and transmitted to the Council, be taken into consideration."

31st August 1950] [Sri K. Chandramouli]

“ In the Statement of Objects and Reasons two points have been made quite clear and I think I need not dilate upon them at this juncture. Hitherto, the Corporation of Madras has been levying upon tram cars a half yearly tax of Rs. 100 per car. Considering the financial position of the Company with reference to their profits and also in view of the fact that the Government have permitted a rise in tramcar fares, the Government, at the instance of the Corporation, have decided to raise the tax from Rs. 100 to a maximum of Rs. 900 out of which, it is proposed that four-ninths of the amount will go to the Government. The Bill before the House is intended to achieve this object and I commend it to the House for consideration.”

DEPUTY CHAIRMAN :—“ The motion is—

‘ that the Madras City Municipal (Amendment) Bill, 1950 (L.A. Bill No. 24 of 1950), as passed by the Assembly and transmitted to the Council, be taken into consideration ’.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Mr. Deputy Chairman, Sir, I wish to ask the Hon. the Law Minister to tell this House under which Article of the Constitution he thinks this taxation measure is *intra vires*.”

* THE HON. SRI K. MADHAVA MENON :—“ Sir, the amendment is to the Madras City Municipal Act which permits the licensing of transport by the Corporation. Local Administration is within the province of the State Legislature to legislate upon.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Sir, if it were merely a measure which gives powers to the Corporation to increase its tax on tramcars, it will be *intra vires*. But this particular measure seeks to have a State tax also imposed, four-ninths of the amount having to be credited compulsorily to the Government. Now, in regard to all taxation measures, it has been provided that particular authorities ought to be responsible for the levying of taxes. You will find in List II—State List—of the Constitution the taxation powers conferred on this State. Items 45 to 63 indicate the subjects and none of which will apply to this particular taxation measure. Secondly, Sir, you will find that in item 57 the State has got the power to impose a taxation on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars. This is a power which the State has got to levy a wholesale tax on tramcars. You will find in Part XII that the question of joint taxation or sharing of taxation proceeds between the Centre or the Union and the States is very clearly defined. You will find the manner of distribution of revenues between the Union and the States in Articles 268, 269 and 270. Article 270 for instance, says—

‘ (i) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided . . . ’

So, there is no provision in the Constitution which says that the Corporation or municipality can levy a tax and have it distributed

[Dr. A. Lakshmanaswami Mudaliyar] [31st August 1950]

between the State and the Corporation of the municipality concerned. Inasmuch as that provision is not there, I feel it is *ultra vires* of the powers of the Legislature to pass a Bill seeking under the City Municipal Act to impose a condition which, in essence, comes to two measures of taxation, a Local taxation and a State taxation. I am not now concerned with the merits of the Bill which I shall take up at a later stage. Item 5 of List II—State List gives powers to the Corporation and local bodies to raise taxes. If the Corporation is given power to raise the tax, it is all right. But to require the Corporation to compulsorily pay a certain amount as a tax to the State is not what is envisaged in the Constitution. This is a very vital point and I think it requires very careful examination at the hands of the Government. The City Municipal Act of 1919 came into force long before the Government of India Act and there is a great reason to believe that this was not what was contemplated. More than that the Constitution of India, 1950, clearly states the duties and powers of the Union as well as the States and I feel considerable hesitation in coming to the conclusion that that power vests in the State or is within the competency of the State."

12-45 P.M. * THE HON. SRI K. MADHAVA MENON :—" Sir, item 5 of List II—State List in the Seventh Schedule to the Constitution is—

'5. Local Government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.'

Therefore this comes within the State List. We are only amending section 116 of the Madras City Municipal Act which gives the Corporation power to tax tramcars, carriages and vehicles. It is not a tax levied by the Government. It is a tax levied by the Corporation. The Government are only saying that 4/9ths of the proceeds of this tax should be credited to the Government. It is an adjustment between the Government and the Corporation. There is no question of any *ultra vires* coming in here. Even if there is any question of *ultra vires*, it has to be decided by the Courts and it cannot be raised here as a point of order. This is only a question of an amendment of a Local Administration Act, the Madras City Municipal Act and it comes under item 5 of the State List. It is entirely within the powers of this Legislature to pass this Bill. Whether it offends the Constitution or not, is a matter to be decided by the Courts. It is perfectly within the competence of this Legislature to pass this Bill. The question of *ultra vires* is not to be decided here."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Sir, I referred to item 5 of the State List in my remarks and said that the State has got power to legislate with regard to 'Local Government, that is to say, the constitution and powers of municipal corporations . . .'. But I find it hard to believe that under

31st August 1950] [Dr. A. Lakshmanaswami Mudaliyar]

this power the Government can ask the Corporation compulsorily to pay the Government 4/9ths of the tax that it collects. Section 116 of the City Municipal Act says—

‘ (1) If the Council by a resolution determines that a tax on carriages and animals shall be levied, the Commissioner shall levy the said tax half-yearly on carriages and animals

(2) The rates of the tax shall be determined by the Council provided always that they shall not exceed the maximum laid down in’

But this compulsory contribution to the State does not enable the Corporation to determine the rate of the tax to be levied, because another party steps in and says that the Corporation should pay in so much of the tax that is levied. It is not open to the Corporation to levy such a rate of tax that it considered reasonable. Apart from that, it offends against the very propriety of Local Administration Act in my opinion.”

THE HON. SRI K. MADHAVA MENON :—“ Sir, may I invite your attention to item 57 of the State List in the Seventh Schedule to the Constitution? It runs as follows :—

‘ 57. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcar subject to the provisions of entry 35 of List III. ’

It is a State subject and the Government can tax tramcars or permit the Corporation to tax tramcars and take a portion of the tax so levied. There is a specific provision here.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ According to item 57, the State Government can tax tramcars themselves and give a subsidy to the Corporation. But it is not open to the Government to ask the Corporation to tax the tramcars and take a portion of the proceeds for their own purpose. I find no specific provision here for such a distribution of the tax between a local body and the State. That is my point. I leave it at that.”

THE HON. SRI K. CHANDRAMOULI :—“ Sir, I have to point out that even now the Corporation has a right to vary the rates of the tax within the maximum limit prescribed. We are not taking away that right. The Corporation has a right to determine the rate of tax without exceeding the maximum limit.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ In determining the rate of tax to be levied, it has got to bear in mind the extraneous consideration which is not quite consistent with the powers vested in the Corporation.”

* SRI R. SURYANARAYANA RAO :—“ Sir, I am afraid the Government want to hit at two birds at one shot. That is why they have got into a mess. (The Hon. Sri K. Madhava Menon : ‘ We have not got into a mess. ’) As Dr. Lakshmanaswami Mudaliyar pointed out, this is a measure dealing with the powers of a local body. To the extent to which the local body may be permitted to tax tramcars, by all means give that power. But if the Government want a share of the proceeds of the tax, or if they want to tax tramcars directly, let them introduce another Bill. As the Hon. Mr. Madhava Menon said, under item 57 of the State

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List the State Government has got the power to tax tramcars. But why mix up the duties of the Corporation with those of the Government? By all means, the Government want money and we know it and we will come to it later on. But let them not make the Corporation responsible for making money for them. That is all I have got to say and that is what Dr. Lakshmanaswami Mudaliyar has stated. Give power to the Corporation to impose its own taxation. If the Government want to levy further taxation, let them bring in another Bill under item 57 of the State List in the Seventh Schedule, under which they can levy 'taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars, etc.' The Government are now taxing buses under the Motor Vehicles Taxation Act and they can go on adding to it. All that we say is: Let them not mix up these things. I think that is constitutionally wrong. I do not know, Sir, why our legal pandits in the Secretariat suggest all kinds of things which raise many doubts. Someone later on may take it to High Court where the poor judges have to sit for days and say that it is *ultra vires* of the powers of the State Government. Let the Government give the power to the Corporation to levy a tax on tram cars subject to a certain maximum limit. If the Government want 4/9ths of the proceeds of the tax, instead of increasing the maximum, let them bring a direct taxation Bill. That is all that we have to suggest at this stage, apart from going into the merits of the case at a later stage."

* THE HON. SRI K. MADHAVA MENON :—" Sir, we have not got into a mess. The hon. Member is unnecessarily raising a doubt where there is nothing. If Mr. Suryanarayana Rao's interpretation of Mr. Lakshmanaswami Mudaliyar's objection is correct, it amounts to this: The Government can authorize the Corporation to levy this tax by amending Schedule IV of the City Municipal Act which is an Act of the State Legislature. Clause 2 (ii) of this amending Bill says that the tax on tramcars shall be increased from Rs. 100 to Rs. 900. I hope there is no objection to that. Everybody says that it is correct. There is nothing wrong."

SRI R. SURYANARAYANA RAO :—" Legally."

* THE HON. SRI K. MADHAVA MENON :—" In amending Schedule IV to the City Municipal Act and enabling the Corporation to raise the tax on tramcars from Rs. 100 to Rs. 900, I am glad to learn that we are not getting into a mess. But I do not feel as Mr. Suryanarayana Rao thinks that the judges of the High Court would feel that as a result of this legislation they would have to spend some time in vain and so on. For whatever the judges do they are spending their time usefully.

" Then the other question is whether it is proper to ask the Corporation to credit 4/9ths of the proceeds of the tax to the Government. Sir, the Government have got the power to tax tramcars and there is nothing wrong in delegating that power of collecting taxes to the Corporation, asking them to take 5/9ths of

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the proceeds of the tax for themselves and credit 4/9ths of the proceeds to the Government. Practically it is the Government that takes the power and then it delegates it to the Corporation. After all, what is the danger that is likely to result from this course? Somebody may say that it is wrong for the Government to ask the Corporation to credit 4/9ths of the proceeds to them. Then the result will be that the entire proceeds of the tax will be credited to the Corporation. That is not a situation of which we need be afraid. Instead of the Government getting 4/9ths of the proceeds of the tax, that also will go to the Corporation. There will be no other danger."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"The whole Act may be declared *ultra vires*."

* THE HON. SRI K. MADHAVA MENON:—"Not at all. We are only amending Schedule IV to the City Municipal Act and increasing the rate of tax from Rs. 100 to Rs. 900. The only contingency is that the Government may not get a share of the proceeds of the tax. We are not very much worried about that. That will not happen. It is only a matter of assertion of opinion on this side or that side. There is nothing wrong whether we tax the tramcars ourselves when we have got the power to tax them or we ask the Corporation to collect this tax and pay a portion of the proceeds to the Government. Even if what we do is wrong, what will happen is, the Corporation will get the entire amount."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"I am afraid we would be setting a precedent which might later on prove disastrous, with regard to the relations between local bodies and the Government. Have we got the power to set such a precedent? It is not on the merits of the tax that I raise this issue at this stage. I have deliberately stated that so far as I can see, under the Constitution, there is no power for the Government to ask the Corporation to levy this tax and credit a portion of the proceeds to the Government. If the Corporation Council have a responsibility to their own clientele, it cannot be discharged by a measure of this kind, because the raising of this taxation is not absolutely of their own volition. If offends against the very propriety of local self-Government if the Government should decide what the Corporation should do."

DEPUTY CHAIRMAN:—"I think this is a matter which has gone before the Corporation and they have already been consulted in the matter. I do not think that is a regular point of order; I take it that it is only intended just to bring to the notice of the House the difficulties which are likely to arise if this legislation is questioned in another place. As the House has been apprised of this difficulty, I think, we may go ahead with the motion before the House. It is for the hon. Members to vote as they please in this matter."

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“ The motion is—

‘ that the Madras City Municipal (Amendment) Bill, 1950 (L.A. Bill No. 24 of 1950), as passed by the Assembly and transmitted to the Council, be taken into consideration ’.”

The motion was put and carried.

* SRI H. M. JAGANNATHAM :—“ Mr. Deputy Chairman, under Rule 129 of the Council Rules, I beg to present a petition on behalf of the Madras Electric Tramways, Limited, signed by its Agent, Mr. L. D. B. Elphick for the consideration of hon. Members. The petitioner prays that the increase in tax may be postponed for the time being as the Company has been working at a heavy loss for the last two years and may be taken up when there is a return of prosperous times and the Company is able to meet the increased taxation. I formally present the petition to the Council.”

(The petition was handed over to the Secretary to the Council.)

DEPUTY CHAIRMAN :—“ Under Rule 131 of the Madras Legislative Council Rules—

‘ Every member offering to present a petition to the Council shall confine himself to a statement of the parties from whom it comes, of the number of signatures attached to it and of the material allegations contained in it and to the reading of the prayer of the petition.’

“ The petition is in conformity with the rule. The Secretary will make an abstract of it and give it out to the Council.”

SRI B. BHIMA RAO :—“ The House should know what the complaint is. The substance of the complaint may be read out to the House, Sir.”

DEPUTY CHAIRMAN :—“ The prayer of the petition may be read out.”

1 p.m. THE HON. SRI B. GOPALA REDDI :—“ The hon. Member has stated that this Bill may be taken up at a later stage when the company is in a position to bear the tax, that it is now running at a loss, and all that; that is the prayer; I think, that is the operative portion of the petition.”

THE HON. SRI K. MADHAVA MENON :—“ We have only to record it and nothing more.”

DEPUTY CHAIRMAN :—“ If the House wants it, I think there is nothing wrong in the abstract being read out.”

SRI B. BHIMA RAO :—“ Now that a request has been made that the abstract may be read out, it is better to have it read out.”

DEPUTY CHAIRMAN :—“ The Secretary will now read the prayer in the petition.

“ The Secretary to the Council then read the prayer contained in the petition. ”

DEPUTY CHAIRMAN :—“ Mr. Jagannatham has got some amendments to clause 2; he may move them.”

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SRI H. M. JAGANNATHAM :—“ Do you allow a general debate on this, Sir? ”

DEPUTY CHAIRMAN :—“ In the second reading, you may discuss the matter contained in the concerned clause.”

JANAB ABDUL LATIF FAROOKHI :—“ On a point of order, Sir; we have not yet passed the first reading stage. Are we not to discuss the question generally now? The Bill has only been moved now, and it is open to the Members either to oppose it or to express their views thereon. I think amendments should be taken up only afterwards, in the second reading stage.”

DEPUTY CHAIRMAN :—“ The first reading is over; let us now take up the Bill clause by clause.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ What has happened is this: we have been going on with the consideration of a likely point of order that might be raised; that was the question we were discussing and I was not going into the merits of the question at all. The next thing was a discussion of the merits of the Bill. I submit for your consideration that what happened was that it was suggested that an issue might later on be raised as a point of order, but I myself refrained from doing so.”

DEPUTY CHAIRMAN :—“ I am sorry; after the point of order was raised, I definitely put the question that the first reading be passed. The House agreed to it. I am sorry the Members did not follow me then. Now the Bill will be taken up for consideration clause by clause.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ I am sorry, Sir.”

* SRI H. M. JAGANNATHAM :—“ I move, Sir, the amendment standing in my name, viz.—

‘ that the proposed sub-section (3) to section 116 be deleted.’

I submit it is not right that the Government should encroach on the Corporation's slender finances while it has got to incur such a huge amount of expenditure every year. The Corporation throughout the 365 days of the year has been begging the Government either for a free grant or for a half-free grant or for a loan with interest or a loan without interest. Whatever may be the tax that is proposed to be collected from the tramway company, I think it should be left entirely to be spent by the Corporation and the Government should not go in for shares with the Corporation. Sir, you, as the ex-Chairman of the Taxation and Finance Committee of the Corporation, know the financial difficulties of the Corporation. I request the Members to vote for the deletion of this sub-section which is proposed to be introduced by clause 2 of the Bill. With these few words, I move the amendment. (The Hon. Sri B. Gopala Reddi : ‘ Do you agree to raise the amount to Rs. 900? ’) I shall come to it later on.”

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* SRI R. SURYANARAYANA RAO :—" Sir, as I have also given notice of an amendment of a similar nature, I rise to second Mr. Jagannatham's amendment. The point has been discussed at considerable length in connexion with the point raised by Dr. Lakshmanaswami Mudaliyar. The Hon. Minister for Local Self-Government in introducing the Bill made two points with which every one of us here will agree. He said that the financial position of the Corporation is such that some additional revenues must be found for it. We all agree. Again, he said that this legislation is being undertaken at the instance of the Corporation. It is just possible that the Corporation has requested the Government to enable it to increase its revenues, its financial resources, and it is quite possible that it has suggested this source; but I am sure that the Corporation did not bargain that while it should be allowed to increase the tax on tram-cars, it should pay four-ninths of it to the State. All that the Corporation might have asked and legitimately asked—and I think it was perfectly justified in doing so—is that it should be enabled to increase its revenue from this particular source. What I say is : by all means assist the Corporation, by increasing the maximum. To what extent the Corporation should be enabled to increase the tax is quite a different matter; on that point I think the Hon. Minister for Finance wanted a definite assurance from Mr. Jagannatham. That there is need to increase the revenues of the Corporation is agreed; and the Corporation is quite justified in asking the Government to come to its assistance. At the same time, it never wanted this particular provision to be put into the Bill. I have been closely following in the papers the proceedings of the Corporation of Madras in regard to this matter; and I am sure the Corporation never bargained that it should collect the tax and pay a portion of it to the Government. No respectable self-governing institution is likely to come forward and say, ' I shall collect the tax for you; if you will please agree, I shall give you four-ninths of it '. The Corporation is after all a body which is practically as big as this Government so far as the City is concerned; no doubt the Corporation derives its powers from this Legislature; but I am sure it would never have agreed to this condition. The object of this Bill is, for the reasons adduced by Dr. Lakshmanaswami Mudaliyar, to give power to the Corporation to increase the upward limit of the tax on tram-cars; please do not ask the Corporation to go into shares with you in regard to the revenue so derived. Later on, I will show that even this is not going to assist the Corporation much; I shall give figures to show that for all the trouble that the Corporation is to take, it will get only about Rs. 10,000 more. Anyway, from a constitutional point of view, I feel it is wrong that such a provision should go into this enactment. Secondly, as I have already said, the Corporation should not be asked to collect the tax and pay a portion of it to Government. If the Government want to levy a tax in order to improve their own financial resources, let them undertake legislation for taxing vehicles, mechanically propelled or not, etc., according to the Constitution. I should therefore like this particular clause to be

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omitted, to avoid not only certain constitutional complications which may arise, but also from the point of view that if you want to enable the Corporation to augment its revenues, in all fairness, you must give it the power to increase the tax without going in for shares. As the hon. Dr. Lakshmanaswami Mudaliyar said, it is on its own volition that the Corporation should increase the tax. You fix Rs. 900 as the limit and allow the Corporation to fix it to-morrow at Rs. 300 or Rs. 200, i.e., to increase the present tax by Rs. 100 or Rs. 200. But out of the increase, why do you want four-ninths? That will mean that you are indirectly compelling the Corporation to increase the tax as much as possible, so that its share of five-ninths may become as big as possible."

THE HON. SRI K. MADHAVA MENON :—" But the present limit is only Rs. 100."

* SRI R. SURYANARAYANA RAO :—" But you are not giving any power to the Corporation to fix the tax within the limit you now prescribe. I feel, Sir, that this is a very reasonable amendment which the Government should be pleased to accept. In moving this amendment, the intention is not to take away any power which the Corporation at present possesses, to fix the tax on tram-cars."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Sir, in supporting this amendment, I should like to bring to the notice of this House certain fundamental principles that are involved, which I think we ought to take note of. I have already said that this measure may be copied with regard to other municipalities also. So far as I can see, it is a measure that is likely to give rise to a great deal of controversy as to whether the Government have got the power or not to make the Corporation collect and pay a part of the tax to them. I deliberately did not want to raise a point of order at that stage, but I do say there is some principle involved in this. As I understand it, all taxation measures and resolutions passed by the Corporation are subject to the approval of the Government; and I do not think the Corporation itself can increase the outer limit of the tax without the concurrence of the Government. If therefore this Bill is passed and the Corporation says to-morrow ' well, we can take advantage of this measure for increasing the present tax; so, let it be Rs. 300 but not Rs. 900,' the Government will not be in a position to give that unbiased consideration to such a resolution as they are expected to give in dealing with it. Interested parties as they themselves will be,—I do not think I am taking any extreme view whatever—I suggest the Government may not be in a position to give that dispassionate consideration which they ought to give, in regard to resolutions passed by the Corporation Council. That is another reason why I feel that a measure of this description is not in the best interests of local self-government. The taxation measure itself will, as pointed out by my friend, Mr. Suryanarayana Rao, bring in very little of additional finance to the Government; it would be in fact nothing, when considered in relation to

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the obviously very large issues—which I have not exaggerated—which may arise and which I suggest this House should take note of. On these grounds, Sir, I support the amendment to delete this particular sub-section."

SRI B. NARAYANASWAMI NAYUDU :—" I want to say a few words with regard to this amendment. The real question to my mind is whether you can delegate the power to tax to somebody else. With whom does it rest now? Does it rest with the local body, or with the State Government or with the India Government? This Bill really wants the Corporation to levy a tax and transmit the proceed, or a portion of it, to the State Government. Does this Government have the power to ask the Corporation to levy the tax on their behalf and pass it on to them? That is the real point raised by Dr. Lakshmanaswami Mudaliyar and no answer has been forthcoming. Under what authority do you want the municipal corporation to increase the tax? The Corporation derives its power to levy the tax under section 98 of the City Municipal Act. You want now, by this Bill, the Corporation to levy the tax not only for itself but for the State Government also. I ask : what right has the Corporation to collect the tax and pass it on to the State Government? Where is the section in the Act which says that the Corporation Council may levy a tax and pay a part of the proceeds to the Government of Madras? It can no doubt levy a tax for its own purposes; it has the authority to do so under section 98 of the City Municipal Act. And who passes the taxation measure in this respect? It is the Corporation Council, taking advantage of the local self-governing power given to it under the City Municipal Act. So, it is the Corporation Council that levies the tax and not the Government. The Government can simply enable the Corporation to levy the tax through a legislation passed by this Legislature. But here you want the Corporation of Madras to suggest a method to increase its revenues, you say you will pass the measure, but at the same time, you want that a part of the proceeds should go to the State Government. How can that be done under Section 98, as it is the Council that has to levy the tax for any purpose? According to section 98 of the City Municipal Act, the power is given to the Council to levy the tax and if you go to section 116, it says—

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"If the council by a resolution determines that a tax on carriages and animals shall be levied . . ."

Therefore, it is the Corporation that is given the power to levy the taxes and that too only for the purposes specified. Now, can you ask the Council by a resolution to determine a tax on carriages and animals and ask them to give the proceeds thereof to you? Is the Council of the Corporation of Madras to be the taxing collecting authority for the State revenues? How can that be? On the other hand, taxation powers are given to us under the Constitution Act and you can levy a tax, as my hon. Friend, Dr. Lakshmanaswami Mudaliyar has pointed out. What you are now proposing

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to do is, to ask the Corporation of Madras to levy a tax as a statutory authority and to divert the proceeds thereof to the State revenues. Who is the authority to determine the tax? Is it the Corporation Council? This Council and the Assembly are the bodies entitled to pass Bills or raise the tax. Now, you are trying to take away the power of the Assembly and the Council to raise the tax and putting it on the Council of the Corporation by bringing in this amendment. It is not merely a question of a matter of order, but the real question is, whether the local Legislature is competent to request the local administrations or municipal councils to do it for them. Probably, they themselves feel they are fed up because people will worry them and they could not pass a law here and therefore they request the local bodies to do it with regard to raising the maxima or minima, so that they could pass a resolution with 20 or 25 members according to party requirements. But, I ask, where is this power given? They cannot do so without the sanction of the Legislature. Can you ask the City Municipal Corporation or any other local body to levy a tax for you and ask them to pass on a portion of the tax to you? I say it infringes the very principle of taxation and therefore it must be deleted. Then again, the question of transmission of a certain proportion of the tax to the provincial treasury is certainly beyond the jurisdiction of the municipal council. In the first place, they cannot levy a tax for the provincial Government, nor can they remit a portion of that to the Government. It is only the Assembly or the Council that can levy a tax. I submit therefore, both on the question of point of order and on the merits of it, this is an indirect way of taxation. They are many subterfuges this Government are seeking to make and this is another subterfuge in order to get money. They do not want to ask the Council or the Assembly to raise the taxation. I want to know who has got that authority? Is it the Assembly's vote or the vote of the Council of the Corporation of Madras, or is it the local bodies vote or the Council's vote that should decide it? How can you go and ask the Corporation Council to raise the tax for you? And, how can you authorize it and how can you ask the Corporation to transmit a portion of the proceeds to you? I have never heard of, what we call, local boards raising a tax and giving it to the State Government."

* MRS. M. HENSMAN :—"Deputy Chairman, Sir, I do not wish to take up the time of the House by repeating what has been said by other hon. Members. But I would like to draw the attention of the House to one or two sections of the City Municipal Act. Now, section 40 deals with the powers of the Provincial Government, which include, power to call for records, power to cause inspection to be made, or the taking of action by the person who is to take action, submission of copies of proceedings, etc., but there is no provision in that section to give powers to the State Government to have anything to do with increasing taxation. On the other hand, when it comes to section 98-A (2), we find—

"When the council shall have determined to levy any tax or duty for the first time or at a new rate, the commissioner shall forthwith publish a notice in the manner laid down specifying the date . . ."

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Now, it is the Corporation that has to levy a new tax or a tax at a new rate, but there is no provision here for the Provincial Government to certify or announce a new tax or a new rate. On the other hand, it is the Commissioner who publishes the notice and it is he who specifies the date, etc., under section 98-A of the Act.

“ Then again, Sir, coming to the question of taxes referred to in section 116, I fail to see how the proposed amendment can form sub-section (3) of section 116. For instance sub-sections (1) and (2) of section 116 say—

‘ (1) If the council by a resolution determines that a tax on carriages and animals shall be levied, the commissioner shall levy the said tax half-yearly on carriages and animals kept within the city which are of the kinds specified in Part III of Schedule IV.

(2) The rates of the tax shall be determined by the council, provided always that they shall not exceed the maximum laid down in Part III of Schedule IV.’

According to the schedule that maximum for every tramcar is Rs. 50 for every half-year. The schedule gives the maximum taxes for other kinds of vehicles, bulls, elephants, camels, bicycles, tri-cycles, etc., and for everything the maximum rate is given there”

THE HON. SRI B. GOPALA REDDI :—“ What about perambulators? ”

MRS. M. HENSMAN :—“ Nothing is mentioned for go-carts or perambulators. I think that has not been put down and so we need not have to pay anything for that. It must have been due to women's influence that this exemption was made. Now, my point is, according to sub-section (2) of section 116, the taxes shall be determined by the Council, provided they shall not exceed the maximum. So, I do not see how, as it is proposed in the other amendment, you can change Rs. 100 to Rs. 900 at the behest of anybody, not even the Council itself. If sub-section (2) of section 116 is changed by an order of the Government, then of course something might be done, but so long as these two sub-sections (1) and (2) of section 116 stand as they are, I think this proposed sub-section (3) cannot be added on to the section, since it is a contradiction in terms. I humbly submit, from my rather inadequate knowledge of law, but from my wider knowledge of commonsense that I do not see how the proposed sub-section (3) can depend upon sub-sections (1) and (2).

“ In conclusion, I wish to say, that in any case, the Bill as passed by the Assembly, puts no date to any of the clauses. Now, Sir, if the House wishes to refer this Bill to the Assembly and if the Assembly chooses to leave it without a date—for a precedent we have the Betting Tax Bill where no date has been put on the Bill that was passed by both the Houses of the Legislature, and perhaps the Hon. Minister in charge has reserved the power to fix the date of action—the Assembly may refer it back to the City Council and ask them to alter section 116 (1) and (2) and then indeed this clause to raise the tax from Rs. 100 to Rs. 900 may come in. But, so far as the section stands as it is, unless such a provision is made, I do not see how we can put in this new sub-section (3) that is proposed.

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"Then again, Sir, hon. Members who have spoken, particularly, Mr. Suryanarayana Rao, referred to four-fifths of the tax being paid to the State Government, whereas, I think in the Bill it is stated four-ninths. Here, I would like to draw attention to what has been said by much abler people than I on the subject. I submit that the powers of the State Government as put down in Section 40 of the City Municipal Act, do not include powers relating to raising the tax or collecting the tax. Now, the Hon. Minister in charge wants four-ninths of the tax on tramcars to be paid to the State Government and then he supplements it by raising the tax from Rs. 100 to Rs. 900. I submit that it is the tram passenger who has to pay all this increase. I think the Hon. Minister made mention that this Government has allowed the tram fares to be increased. By how much? By half-anna. There is no route in this City on which the increase is more than half-an-anna from end to end both for new tramcars and for the tramcars that are now in motion. I would ask the Hon. Minister seriously to consider, especially section 116 (1) and (2) of the Act and the Bill as proposed, and refer the Bill back to the Assembly for necessary action."

* DR. P. S. SRINIVASAN :—"Deputy Chairman, Sir, with regard to the law in the matter, whether it would be right for this Government to levy this tax or ask the Corporation to levy this tax and take a portion of the tax, I leave it to the Hon. Minister to reply. But, with regard to the statement made by my hon. Friend, Mr. Suryanarayana Rao that the Corporation will get only Rs. 10,000. I think he has to be corrected. According to the petition submitted by the Electric Tramway Company they say, they have paid to the Corporation Rs. 21,000 per year. That is for 105 tramcars that are running on the line. At that rate, they will be getting, for 105 cars, about Rs. 50,000 and it is not a small sum. It will give an increased income to the Corporation which will go a long way in the matter of improving its revenue."

DEPUTY CHAIRMAN :—"Is the hon. Member, Mr. Jagannatham, moving his other two amendments also?"

SRI H. M. JAGANNATHAM :—"As there are only five more minutes before luncheon hour, I would like to move them after lunch, Sir."

SRI B. NARAYANASWAMI NAYUDU :—"I think if all the amendments are moved, it will facilitate the Hon. Minister to give a reply to all of them."

The House then rose for lunch.

(After lunch—2-30 p.m.)

* SRI H. M. JAGANNATHAM :—"Mr. Deputy Chairman, Sir, I beg to move that—

'In the amendment proposed to rule 10 of Schedule IV for the proposed figures "900" substitute the figures "300".'

My reasons for this are as follows."

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THE HON. SRI K. MADHAVA MENON :—" There is considerable love for the Corporation in the House." (Laughter.)

* SRI H. M. JAGANNATHAM :—" Sir, the increased tax on tramcars from Rs. 100 to Rs. 900 is too much. I know the Government have made up their mind about this enhancement and so whatever arguments I might put forth on this occasion will be of little avail. But still from the point of view of the common man, from the point of view of the ordinary tram-user, I will be failing in my duty if I do not give expression to the vital considerations that have to be borne in mind while passing this amendment.

" Sir, this is a case of indirect taxation on the poor. The burden of this heavy tax is going to be shifted on to the shoulders of the poor wage-earners in the City and not on the rich who have their own motor cars. It is all very well to say, ' we are not taxing people, but only the company. We have recently permitted them to raise the fare from nine pies to one anna per mile stage. Why not they be asked to pay? ' But is that the real proposition? The tramway company, as they have clearly shown in their balance sheet, have been working at a loss for the last two years. In 1948 the loss was Rs. 1½ lakhs and in 1949, Re. 1 lakh despite all the increase of population in the City. What has been the result of the increased fares? Unless you get more passengers, or at least unless you get the same passenger traffic, which, they now say, has gone down by 21,800 per day, you cannot make any additional income. The company estimated to gain by the increase nearly half a lakh of rupees every month, but in the first month in which the new fares were introduced, they got only Rs. 25,000. So, there is no denying that there has been considerable drop in the passenger traffic and these passengers must have gone over to the State Transport buses. So the little additional income the company was able to get is more than off-set by the higher charges for electricity demanded by the Government and the proposed enhancement of the tax on tramcars which this amendment seeks to levy.

" Sir, while our great national leaders in the early years of their coming into power were very enthusiastic about nationalization of industries, they are now convinced that private enterprise has a very important place in the national economy. Indeed the Government of India have given a number of tax reliefs to private enterprises in their last budget. If I remember right, they have also promised much more reliefs in future.

" Now, Sir, here is a vital industry—Transport Services—operated by a private company which has been working at a heavy loss for the last two years. They have not been able to pay any bonus to the employees in spite of the strikes. Either the Government should take over the service, nationalize it also like the bus transport service, or, Government should allow the company to function with benefit to the public, satisfaction to their staff and profit to the shareholders. There can be no other choice before the Government.

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“ Sir, I am quite clear by this amendment, Government will be killing the goose that lays the golden egg. The company will naturally, I think, reduce the number of cars they put on the road, which will mean reduction of staff, unemployment to workmen and more and more inconvenience to the travelling public. Already both the Government Transport and the Tramways are not able to cope with the traffic during the peak hours, and many employees of firms in the City are forced to walk all the distance to their home late in the night. Do Government want to make the situation worse by forcing the company to reduce the number of tramcars? Do they wish to invite labour trouble? There is no doubt that the company will be forced to retrench the staff. Therefore, Sir, I would ask Government even at this late hour to drop their proposal or limit the tax to Rs. 300.”

SRI R. SURYANARAYANA RAO :—“ Sir, I beg to move my amendment which seeks to fix the maximum of Rs. 400 per car as the tax. My amendment runs thus—

‘ In the amendment proposed to rule 10 of Schedule IV, for the proposed figures “ 900 ” substitute the figures “ 400 ”.’

Sir, in moving my amendment, I would like Government to tell us whether they have examined the balance-sheet and profit and loss account of the Tramway Company and satisfied themselves that it can bear tax to the extent of Rs. 900 they propose. Sir, from the figures which have been furnished by the Tramway Company, which I am sure Government cannot challenge, I find the company has been running at a loss. Is it the intention of Government that they should make the company run on greater losses and get into liquidation? Is it fair to ask a losing concern to pay more tax so that its losses may increase? That is one point I wish to make.

“ The second point is, what will be the next step of the Tramway Company if this tax is imposed. It will seek to increase the fares. And who is to pay this increased fare? It is the citizen. Sir, the citizens of this City and this province have been made to bear all kinds of burdens. My friend, the Hon. Finance Minister is keen on finding out any commodity which is available for putting a sales tax. (Laughter.) Now, next to food and clothing, transport is the most important consideration for those living in cities like the City of Madras. By this measure, the tramway fares will be increased, or the tramway company would be compelled to withdraw some of their coaches from the line, as they would not be able to pay the enhanced tax. So, ultimately it is the citizen that would be hit by this measure. Evidently, it looks as though the Hon. Finance Minister wants every citizen to be at his mercy (laughter) because he wants to increase the income of the Government Bus transport. Instead of providing more facilities to citizens by making the transport as cheap as possible—now that the city is spreading itself out—and help it to expand and enable the people to live in distant parts and from there go to their place of employment easily and quickly. Government are now indirectly compelling the Tramway Company to increase their fares, and make those who make use of the tramway to pay more fares, or compelling the company to withdraw

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their tramcars from the line, and thereby put the citizens to great hardship. Either of these results will take place, if the increased tax is levied.

"Again, Sir, increased fare means decreased returns to the company, which, in its wake would lead to withdrawal of cars from the line, and that would lead to retrenchment, unemployment and labour trouble. Already the tramway company labour is restive; because they feel the amenities they are entitled to are not provided for them. So the ultimate result will be the unfortunate and unnecessary labour trouble in the City of Madras.

2-45
P.M. "My friend, Dr. Srinivasan, this morning corrected me, and I accept his correction and I am thankful to him for it, regarding the revenue to Corporation from this tax. At present the revenue at the existing rate of tax is Rs. 21,000 to the Corporation at the rate of Rs. 100 per car for 105 cars. The revenue from the new tax proposed, at the rate of Rs. 900 per car, amounts to Rs. 1,89,000; and four-fifths of it, Government will take, that is, Rs. 84,000, and the Corporation will take the balance. It is true that the finances of the Corporation will be greatly augmented. But my amendment practically helps the Corporation to retain, by having the tax at Rs. 400 per car, as much as they will be getting if Government amendment is accepted. In the interests of the citizens of the City who need transport very badly, I feel it is wrong to raise the rate of tax on tramcar from Rs. 100 to Rs. 900 all of a sudden. The increase is as much as nine times. If the facts stated by the Tramway Company are correct and I hope they are correct, the company is working at a loss. I would like the Government to consider whether it is fair to impose this additional burden on the company and whether we should not accede to the prayer contained in its petition to stop this increase for the present and, when the times are propitious, impose such additional taxation as might be necessary.

"My hon. Friend the Minister for Law said this morning that as soon as this Bill was passed into law, the Corporation would be required to levy a tax of Rs. 900 per tramcar. It is not so. Rs. 900 is only the maximum. If the Corporation Councillors feel that they need not impose Rs. 900, it is open to them to levy the tax at a reduced rate, or retain the existing rate of tax. But, as the Government are anxious to get a share of the revenue, perhaps forces will be at work to influence the decision of the Corporation. Let us leave the Corporation to itself, fix a lower maximum and allow it to exercise its choice within that maximum. I do not think it is fair to increase the tax to the extent to which it is proposed to do. I do not know on what basis the Government have arrived at this rate of Rs. 900. Perhaps they must be thinking that the Tramway Company is making a huge profit—hidden profit of which we are not aware from the published accounts. Knowing that the company is running at a loss and will not be able to bear the additional burden in spite of the increase in fares, it is not fair to raise the tax unless the Government have made up their mind to permit the company to increase the fares further. With these words, I move my amendment to substitute Rs. 400 in the place of the proposed Rs. 900."

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THE HON. SRI B. GOPALA REDDI :—“ Rs. 400 is worked out on what basis? ”

* SRI R. SURYANARAYANA RAO :—“ On no basis. As the accounts of the Tramway Company show that it cannot bear any additional burden, we would like the proposed increase to be dropped altogether. But if the Government's intention is to assist the Corporation to increase its revenue, perhaps the Corporation will levy the tax in such a manner as to indirectly compel the Tramway Company to hand over the concern to it. The Corporation is very anxious to take over the tramways. Perhaps this is another method of compelling the Tramway Company to hand over its assets and liabilities to the Corporation. I quite agree that there is no case for increasing the tax. But if the Government want to increase the tax at all in view of the increase in fares, the increased revenue must go to the Corporation. They have got the power to say to what extent the Corporation can increase the tax when the proposal comes up before them. I believe that any increase in tax by the Corporation has to secure the permission of the Government. Let the Government fix a lower maximum of Rs. 400 and allow the Corporation to so adjust the rate of tax as to conform to the ability of the Tramway Company to bear the burden.”

SRI M. D. T. KUMARASWAMI MUDALIYAR :—“ I second the amendment.”

* THE HON. SRI K. MADHAVA MENON :—“ I appreciate the suggestion of the hon. Sri B. Narayanaswami Nayudu that the amendments should not have been clubbed together. The amendment proposed by Sri H. M. Jagannatham and Sri R. Suryanarayana Rao to delete the proposed sub-section (3) to section 116 seeks to give the entire benefit of the increased tax to the Corporation. I quite understand their sympathy for the Corporation. The second amendment is just the reverse. In effect it says that the Corporation does not want the money, that the Tramway Company is in financial difficulties and that the tax need not be raised. I do not think that even the Tramway Company can put its case so well as Mr. Jagannatham did. He referred to the difficulties of the Tramway Company, how its balance sheet showed that it was working at a loss, the possibility of retrenchment of labour consequent on increasing the tax and so on. Perhaps Mr. Narayanaswami Nayudu anticipated the funny position that has arisen now when he suggested that these contradictory amendments need not be clubbed together.

“ Mr. R. Suryanarayana Rao was very vehement about the Government taking a share of the revenue from the Corporation. I quite appreciate his plea on behalf of the Corporation. Every one of us wants to make the City beautiful. Dr. Lakshmanaswami Mudaliyar thinks that we are making the City horrible.

“ Much sympathy was shown for the Tramway Company. I do not know what profit it is making. Except the petition that has been put before the House, I have no details of its income and expenditure.

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" Mr. Suryanarayana Rao asked what the sanctity was that was attached to this figure of 900. For every transport bus we are levying a tax of Rs. 30 per seat per quarter or Rs. 120 per seat per year. The seating capacity of the smallest tram-car is about sixty. Very often it carries a considerably larger number of passengers and let us proceed even ignoring this overloading. On the basis of the tax paid by a transport bus, a sixty-seater tram-car will have to pay a tax of Rs. 7,200 per year. We propose to fix the maximum only at Rs. 900 per half-year. In fact, the Corporation passed a resolution seeking permission to increase the maximum to Rs. 3,000, perhaps with a full knowledge of the condition of the Tramway Company and the other taxes it has to pay. Much sympathy was exhibited by Mr. Jagannatham for the poor traveller who has no motor-car and who has to go about walking or travel in a tram-car. It is out of consideration for the poor traveller that we have fixed the maximum at Rs. 900 and not at Rs. 3,000 as was suggested by the Corporation.

" The amendment of Mr. Jagannatham and Mr. Suryanarayana Rao to reduce the maximum to Rs. 300 and Rs. 400 respectively does not help anybody in any way except perhaps the Tramway Company. I am not in a position to say whether the Company is in need of any help or not.

" Sri Narayanaswami Nayudu and Dr. Lakshmanaswami Mudaliyar doubted the propriety of asking the Corporation to pay a part of the revenue to the Government. I do not want to be dogmatic, as the procedure may be capable of different interpretations. Under the City Municipal Act, the Government have power to impose on the Corporation duties other than those imposed by the Act. Under that power, the Government can ask the Corporation to collect the tax and pay a portion of it to them. The procedure can be defended on another ground also. Just as the City Municipal Act is a power given by the Legislature to the Corporation, the Legislature will be giving power to the Corporation to pay a portion of the tax to the Government by passing this Bill. That is my submission."

THE HON. SRI B. GOPALA REDDI :—" Sir, I do not want to go into the constitutional or legal aspect of the question whether it is desirable that the Government should authorize the Corporation to levy tax at an enhanced rate and ask for a portion of the revenue to the State exchequer. I am viewing it only from the propriety point of view. I do not think there is anything improper about it. It is a question of internal adjustment between the Government and the Corporation. When we can make every petty dealer to be our Sales Tax Collector, there is nothing wrong in our authorizing the Corporation to levy a tax at their discretion subject to a specified maximum without any kind of compulsion and asking it to contribute a portion of the revenue to the State exchequer. Perhaps there may not be many precedents for it in this country or in other countries. While the Government collect the tax and give a share to the Corporation, no objection is raised. But when the Corporation collects a tax and the Government ask for a share,

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objections are raised on the ground of law, constitution and propriety. The Government collect the Entertainments Tax and give about ninety per cent, to the Corporation, municipal council or other local body concerned. Likewise, the Government collect the Motor Vehicles Tax and give about Rs. 90 lakhs to the district boards and municipalities as toll compensation out of the revenue derived from that tax. A stamp duty of 5 per cent in the City and municipal areas and 4 per cent in other areas is levied. The duty is collected by the Registration Department of the Government and out of it over Rs. 2 crores is paid to the local bodies every year. Thus the Government collect the Entertainments Tax, Motor Vehicles Tax and stamp duty on transfer of property and give a portion of it to the Corporation and other local bodies. When that is possible, I do not see why the reverse of it cannot be possible. It need not necessarily be one-way traffic. The Corporation can collect certain taxes and pay a portion of it to the Government.

“ Sri R. Suryanarayana Rao pertinently asked whether it was fair to enhance the tax to Rs. 900. We have not enhanced the tax; we are only giving power to the Corporation to enhance it. The provision made is only permissive and not binding. After considering the financial position of the Tramway Company and all other relevant matters, it is open to the Corporation to enhance the tax suitably subject to the maximum of Rs. 900 or not to enhance it at all.

“ Apart from that, Sir, he asked whether it was desirable that 3 p.m. the Tramway Company should be asked to pay 900 per cent more than what they are paying to-day. But, Sir, take the case of a poor man who owns a bus or two. Without much of a capital, he buys the bus, and puts it on the road. He has then to pay Rs. 3,600 a year by way of motor vehicle taxation. He has to meet the petrol charges and tyre charges and he has got to pay for the conductor and the driver and besides these, he has got to meet some expenses by way of repairs and renewals, because he cannot maintain a workshop of his own. And with all these expenses, he has got to pay a tax of Rs. 3,600 per year, while the Tramway Company, because it is an English Corporation working here for a very long time, pays only a tax of Rs. 200 a year per tram-car with a standing capacity of 40 and a seating capacity of 35 passengers. Is it fair to ask the poor bus-owner—for he is indeed poor when compared to the Tramway Company—to pay Rs. 3,600 per year as motor vehicle taxation, while the big Tramway Company carrying about 75 passengers in a tram-car pays only Rs. 200 to the Corporation? Sir, I cannot understand the justice, the propriety and the ethics of this preferential treatment. Yet my hon. Friend Mr. R. Suryanarayana Rao pleads for that English company and says that it will go into voluntary liquidation if the tax is raised. Sir, I am pleading for the other man, the bus-owner, because I want that there should be some sense of justice and some sense of proportion between the tax paid by him and the tax paid by the Tramway Company. There should be some sense of equity in this matter and that is why I want to enhance the tax on the Tramway Company and bring it on a par with the bus tax. Therefore the Corporation of Madras has rightly

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asked us that they should be permitted to enhance that tax from Rs. 100 to Rs. 3,000. We had carefully gone into the matter and we had come to the conclusion that it might be raised to Rs. 900 at the most. Now the entire motor vehicles tax is taken away by the State Government, though the roads in the City of Madras are maintained by the Corporation. The Corporation gets no share from the motor vehicles tax. We are taking away the entire tax but we are only paying a small amount by way of toll compensation on some basis which is not commensurate with the use to which the Corporation roads are put to, by the motor users. Therefore, there is nothing fundamentally wrong in the Corporation's request to enhance the tax on the Tramway Company and there is also nothing wrong on the part of the Government asking that 4/9ths of the proceeds of that tax should go to the State Government. Now we have been getting a portion of the licence fees collected by the Panchayats and municipalities. Similarly we must get a portion of this tax from the Corporation.

"Sir, there was also the other point raised about the enhancement of the tram-fares. The Tramway Company asked us to permit them to enhance the rates of fares and the Government agreed to it. The Registrar of Joint Stock Companies went into the question and computed that the Tramway Company would get about Rs. 6 lakhs per year by means of this enhanced fare. The company's deficit during the last two years was not much. I think it was about Rs. 80,000 in the year before last and one lakh of rupees during last year. But they have been earning huge profits in the previous years and declaring huge dividends to their shareholders in England all those years. Nobody has said anything about it and nobody has pleaded that they should pay an enhanced tax to the Corporation, even though the finances of the Corporation are in no way better. The shareholders of the Tramway Company who are in England had been getting huge dividends all these years and that was not also mentioned by my hon. Friend Mr. H. M. Jagannatham, who pleaded so very forcibly for the Tramway Company."

SRI H. M. JAGANNATHAM :—"During the last 24 years, they have paid dividend only for 12 years, Sir."

THE HON. SRI B. GOPALA REDDI :—"But, what is the rate of dividend they had declared during the years in which dividends were paid to the shareholders? (An hon. Member: 'Cent per cent!') Unless they had made huge profits, they would not have paid such huge dividends to their shareholders. But they never paid any enhanced tax to the Corporation all those years. But because during the last two years, the company has sustained some loss, Hon. Members are pleading very eloquently for the company and are threatening that it would go into liquidation, that the public would be put to considerable suffering and all that. I submit, Sir, that they are simply shedding crocodile tears, when they plead on behalf of the Company."

SRI B. NARAYANASWAMI NAYUDU :—"Sir, there was no tears till now in this House from hon. Members, still less crocodile tears!"

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JANAB K. T. M. AHMED IBRAHIM :—“ When the Government allowed the Tramway Company to increase its rate of fares, did not the Government go into all these matters? Why did the Government give permission to enhance the fares? ”

SRI R. SURYANARAYANA RAO :—“ Are the Government going to permit any further increase, if the Tramway Company asks for it again? ”

THE HON. SRI B. GOPALA REDDI :—“ Sir, the Tramway Company said that by this enhancement of 25 per cent, i.e., from 9 pies to 12 pies, it would get about Rs. 6 lakhs of additional income per annum. We thought that from this increased income, the Corporation of Madras and also the Government might get a share and that is why we permitted the enhancement of fares. But just now it comes and says that its expectations had not proved correct, that there had been a deminution in the number of passengers, that the travelling public had taken to other forms of transport such as rickshaws and buses and hence pleads that this tax should not be enhanced. Sir, that is a matter which the Corporation of Madras would go into and I am sure, the Corporation would certainly consider the financial position of the Tramway Company and also the company's income by way of increased fares, and impose only such tax as would be fair and equitable. What we now say is, we shall permit the Corporation to increase the tax up to a maximum limit of Rs. 900. It may be Rs. 200 or Rs. 300 or Rs. 400. That is a matter that would be left to the discretion of the Corporation and we do not compel the Corporation that it should levy the maximum tax of Rs. 900. We have simply fixed the maximum and we would leave it to the Corporation to do as it deems fit and proper. Therefore, Sir, there is nothing fundamentally wrong in our present Amending Bill. This is only a participation in the allocation of revenues. We have been amending our taxation measures from time to time and we have been sharing the taxes with the local bodies and the Corporation of Madras and this is one of such measures, in which we have asked the Madras Corporation to share the proceeds from this tax between the Corporation and the State Government in the ratio of 4/9 and 5/9, because we want to place this tax on a par with the motor vehicle taxation. Otherwise it will be unfair for the motor-owners to be paying their tax entirely to the Government and nothing to the Corporation at all. The Tramway Company do not now pay anything to the Government, but pays its tax only to the Corporation. So the State Government has a right to come into the picture and whatever is given to the State, will again come back to the Corporation in a different shape. In any case, Sir, the Corporation will not be allowed to be starved and the Government will certainly come to its aid, whenever it is in need of finance. As a matter of fact, Sir, the Local Finance Enquiry Committee has been purposely set up to enquire and make suggestions to augment the sources of revenue for local bodies and when that Committee came here from Simla, I myself gave evidence as to how best the finances of local bodies could be augmented and placed on a sound basis. We are awaiting the report of that Committee and if

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they suggest that more finances should be made available to the local bodies, then certainly we shall think of giving even the 10 per cent of the Entertainment tax that we are now getting from the cinema theatres. Now we are getting about Rs. 5 lakhs from cinema houses. Perhaps from one point of view, it is legitimately a municipal tax and must be paid to the municipality. Therefore it is up to the Government to pay back these taxes to the local bodies and it is certainly obligatory on the part of the Government to see that the Corporation is not starved. It is not as though we want to strangle the Corporation or to take away its legitimate taxes. Therefore, Sir, there is nothing illegal or unconstitutional about this sharing of the tax between the Corporation and the State Government and I do not think that even if anybody would venture to go to the High Court to obtain a writ to declare this legislation *ultra vires*, he would succeed in such attempt, because we have no doubt about our constitutional position in this matter and we are confident that no such thing would happen. This is only a question of propriety. After all, Sir, propriety is always bilateral and not unilateral. When we help the Corporation to augment its finances, we also do want to get a share of its revenues in order to augment our own resources. So, there is nothing wrong in what we have done, Sir.

“ With these words, Sir, I commend the Bill for the acceptance of the House.”

* THE HON. SRI K. CHANDRAMOULI :—“ Mr. Deputy Chairman, Sir, after having heard the speech of my Hon. Colleague, the Finance Minister, I have very little to say by way of reply and I should like to place only one or two points before the House. My Hon. Colleague has answered most of the points raised by hon. Members opposite in the course of this debate. I do not propose to go into those points again. I should like to make one point clear before I proceed to the others.

“ The first point is that the Corporation passed a resolution on 3rd May 1949 asking the Government to permit it to enhance the tax on the Madras Electric Tramway Company at the rate of Rs. 6 for each seating accommodation and Rs. 3 for each standing accommodation. As all hon. Members know, there are about 105 tramcars now running in the City. Previously, when the Madras Corporation asked the Government to increase the tax, we went into the question and even on the statements furnished by the company itself, we found that it was actually working at a profit of Rs. 4 lakhs annually. According to the calculation of the Corporation, the company was making an average profit of Rs. 30,000 per mensem. At that time, we thought that such a high taxation as proposed by the Corporation was not justifiable and feasible and therefore we deferred the proposal. But now, when the Corporation has come up again with the present proposal for enhanced taxation, we find that even according to the audited balance-sheet of the company for the year ending 31st December 1949, the company has made a net profit of 800 pounds. Of course, the company has not paid any dividend for the last year and this year, but all the same, it has shown a net profit. So,

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hon. Members cannot argue that the company will go into liquidation if this tax is enhanced. Even according to its own statement, the company expects to get an additional revenue of about Rs. 6 lakhs per year on account of the increased rate of fares. But now only two months' figures have been placed before hon. Members by the company and even according to those two months' figures, we see that it has got a profit of Rs. 24,000 and Rs. 10,500 respectively during the last two months. Even at this rate, it is possible for the company to make a profit of nearly Rs. 2½ lakhs this year. It cannot therefore be argued that the company would incur a loss or that it would go into voluntary liquidation and all that. I cannot understand the plea put forward by hon. Members on behalf of the company and the threats they held out that the number of tramcars would be reduced or that there would be labour troubles or that the public would be put to much inconvenience, if the tax is increased. All these statements are simply exaggerated and only tend to create confusion in the minds of the public. Quite recently, the Directors of the company interviewed us and had a talk with us. They furnished us certain figures and from those figures we were very clear that the company is running on a profit and if we patiently wait for one full year, the company would certainly make enough profits to pay the tax and at the same time earn a decent margin of profit. From these two months' figures, we cannot conclude that it would make a loss and that all those harrowing pictures that hon. Members have sought to paint, would follow in their train.

"Sir, I have already made it clear, that the tax of Rs. 500 that is now proposed is the maximum that the Corporation can levy. The corporation has the discretion to reduce it, in accordance with the capacity of the Tramway Company to pay. It may levy Rs. 400 or Rs. 500 or even less. Its discretion has not in any way been interfered with. Therefore, Sir, we have not at all made any unreasonable or abnormal proposal in the Bill before us. My Hon. Colleague, the Finance Minister has made the point clear that there is nothing wrong in the Government's asking for a share in the proceeds of that tax. But still when hon. Members have pleaded so much on behalf of the Corporation, I can quite appreciate their anxiety that the financial position of the Corporation should not in any way be weakened. The Government are also of the same opinion and they do not stand on false prestige. I am therefore prepared on behalf of the Government to accept the amendment of my hon. Friend, Mr. Jagannatham and Mr. R. Suryanarayana Rao for the deletion of the proposed sub-section (3) to section 116. The Government would not object to the amendment, because hon. Members are so forcible in that respect. But under no circumstances would the Government accept the contention that the company would go into liquidation owing to this taxation. I therefore request hon. Members to withdraw all the other amendments, except the one I have just now referred to, namely the deletion of sub-section (3) of section 116, which the Government are prepared to accept, in accordance with the wishes of hon. Members of this House."

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3-15
p.m.

DEPUTY CHAIRMAN :—" The motion is—

' Delete the proposed sub-section (3) to section 116 '."

The amendment was put and carried.

DEPUTY CHAIRMAN :—" I now put the other two amendments of the hon. Members Sri H. M. Jagannatham and Sri R. Suryanarayana Rao to the vote of the House."

THE HON. SRI K. CHANDRAMOULI :—" Sir, I would request the hon. Members Sri H. M. Jagannatham and Sri R. Suryanarayana Rao to withdraw their amendments in view of the acceptance by the Government of their first amendment."

SRI H. M. JAGANNATHAM :—" I withdraw my amendment, Sir."

SRI R. SURYANARAYANA RAO :—" I also withdraw my amendment, Sir."

The amendments were, by leave of the House, withdrawn.

Clause 2, as amended, was put and carried.

Clause 1 was put and carried.

The preamble was put and carried.

THE HON. SRI K. CHANDRAMOULI :—" Sir, I move—

*" that the Bill be returned to the Legislative Assembly with the following recommendation :—**" Delete the proposed sub-section (3) to section 116 " '."*

DEPUTY CHAIRMAN :—" The motion is—

*' that the Bill be returned to the Legislative Assembly with the following recommendation :—**" Delete the proposed sub-section (3) to section 116 " '."*

SRI B. NARAYANASWAMI NAYUDU :—" Sir, this is the first time that the Government have been pleased to accept an amendment from the Opposition. (Applause). I hope this will not be the last time. On a vital matter like taxation, I am glad that the Government have accepted this amendment. I hope hereafter there will be no question of prestige. When we feel that a certain thing is right, we must stand up and accept it. That alone is true democracy. I congratulate the Government on the bold step they have taken. We all owe this to Dr. Lakshmanaswami Mudaliyar who pointed this out. I myself did not notice it. I am very grateful to him for pointing out this."

DEPUTY CHAIRMAN :—" The motion is—

*' that the Bill be returned to the Legislative Assembly with the following recommendation :—**" Delete the proposed sub-section (3) to section 116 " '."*

The motion was carried.

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(6) THE MADRAS LAND ENCROACHMENT (AMENDMENT) BILL, 1950.

* THE HON. SRI K. MADHAVA MENON :—“ Sir, I beg leave to introduce the Madras Land Encroachment (Amendment) Bill^a 1950, and move—

‘ that the Bill be taken into consideration at once.’

“ Sir, this is a very small Bill. The Government are leasing certain lands for a temporary purpose and for a temporary period. Occasions might arise when at the end of a period the lease has to be terminated automatically or has to be terminated before the period of lease for reasons like the non-compliance with the conditions of the lease. For non-compliance with the conditions of the lease, resumptions are made. It has been the practice of the Government to take possession of the land under the Land Encroachment Act. Where the parties do not surrender possession, the provisions of the Land Encroachment Act were applied. Now doubts have arisen whether the Government can, as a matter of fact, apply the provisions of the Land Encroachment Act in those cases. We want to clear the doubts that in cases where lands have been leased, and those leases have been cancelled for breach of the conditions of the lease, the provisions of the Land Encroachment Act can be invoked to take possession of the land. The practice adopted for a number of years may not be the law if some doubts are raised. Since doubts have been raised, to clear all those doubts, this Bill is brought forward. Sir, I move.”

DEPUTY CHAIRMAN :—“ The motion is—

‘ that the Madras Land Encroachment (Amendment) Bill, 1950, be taken into consideration at once ’.”

• SRI T. PURUSHOTHAM :—“ Sir, I rise on a point of information. After the coming into force of the Zamindari Abolition Act, the Government have passed orders with regard to some tenants who were in possession of some zamindari lands. Will they be ejected under the Land Encroachment Act? When it is clearly laid down in the Zamindari Abolition Act that any dispute with regard to the possession of those lands will be decided by a Tribunal, how can this Government eject any tenant under the provisions of the Land Encroachment Act? Is it for this purpose that this amending Bill is brought forward? If so, how can this be valid in view of what is contained in the Zamindari Abolition Act.”

* THE HON. SRI K. MADHAVA MENON :—“ Sir, this Bill has nothing to do with the Zamindari Abolition Act or the Rent Reduction Act. The proposed section is clear. It says—

‘ Where a lease of land which is the property of the Government expires or is terminated by the Government or any other authority competent in that behalf, the lessee or any other person remaining in possession of the land after such expiry or termination, or

where land granted to any person is liable to be resumed by the Government for the breach or non-observance of any of the conditions subject to which the grant is made and the Government or any other authority competent in that behalf have passed orders resuming the land for such breach or non-observance, the grantee or any other person remaining in possession of the land after the passing of those orders,

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shall, for the purposes of sections 3 to 15, be deemed to be a person unauthorizedly occupying such land.'

It must be a lease of land belonging to the Government, or it must be a grant of land subject to certain conditions, the breach or the non-observance of which, will entail resumption by Government. There must be a specific grant of land by the Government or a specific lease for the provisions of this Act to be applied. In other cases, this Act will not be applied."

DEPUTY CHAIRMAN :—" The motion is—

' that the Madras Land Encroachment (Amendment) Bill, 1950, be taken into consideration at once '."

The motion was carried.

Clause 2 was put and carried.

Clause 3 was put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

' that the Madras Land Encroachment (Amendment) Bill, 1950, be passed '."

DEPUTY CHAIRMAN :—" The motion is—

' that the Madras Land Encroachment (Amendment) Bill, 1950, be passed '."

The motion was carried.

(7) THE MADRAS REPEALING AND AMENDING BILL, 1950.

* THE HON. SRI K. MADHAVA MENON :—" Sir, I beg leave to introduce the Madras Repealing and Amending Bill a 1950, and move—

' that the bill be taken into consideration at once.'

" Sir, hon. Members need not be frightened by the volume and the number of pages that are found in this Bill. There are a number of obsolete and spent out Acts on the Statute Book from 1859 onwards. So many Acts which have been passed, were temporary, or have worn out or have become spent out, but still they are on the Statute Book. From the time of adaptation of the laws under the New Constitution, we have been examining whether these Acts should be retained. For instance there is the Moplah Outrages Act. It is stated that the Government can cancel it by a notification. We have cancelled it by a notification. There is the Moplah Outrages Act Continuance Act. We have cancelled it by a notification. Still these Acts are on the Statute Book. A number of subsequent enactments have cancelled the previous enactments, but still the old Acts are on the Statute Book. This Bill contains two Schedules. The First Schedule deals with those Acts which are to be repealed. The Second Schedule deals with amendments to certain previous enactments. The amendments, in all cases, are only verbal. In the Madras

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Land Revenue Assessment Act, 1876, in section 2, for the words 'official gazette' in the second paragraph, the words 'District Gazette' are proposed to be substituted. Because, the term official gazette has been defined as *Fort St. George Gazette*, and that publication in the District Gazette will not be a sufficient publication. In the Local Authorities' Loan Act, 1888, the amendment proposed is, in section 1, before the words and figures 'Local Authorities' Loan Act, 1888', the word 'Madras' shall be inserted. In the case of a plural subject and singular predicate, we have substituted the singular predicate. We have examined all the Acts to the extent possible to correct any grammatical mistakes there may be. In the Madras Stamp (Amendment) Act, in Schedule I-A, Article 26, for the words 'greatest value', we have substituted the words 'greater value'. Similarly, in the Madras University Act, in section 45, for the words 'its institutions' we want to insert the words 'their institutions'. Again in section 53, for the words 'it deems fit', we have suggested the words 'they may deem fit'. These are all verbal amendments. I took so much time to explain all this, because Mr. Suryanarayana Rao has tabled an amendment that the Bill be referred to a Joint Select Committee of the two Houses. Not that I have any objection to refer the Bill to a Joint Select Committee if the House so thinks. After all there is nothing to be lost or gained by reference to a Joint Select Committee. In every case the House will see that the amendments proposed are all verbal to correct grammatical and other mistakes.

"In the Annamalai University Act, I want that for the words 'he deems fit', the words 'they deem fit' shall be substituted. So, this is the nature of the amendments that are proposed. I have looked into them carefully. Even in making these amendments I had made some mistakes which were found out subsequently. Therefore, I have myself given notice of one or two amendments. No particular purpose will be served by referring this Bill to a Select Committee. Hence, I move that the Bill be taken into consideration at once."

DEPUTY CHAIRMAN:—"The motion before the House is 'that the Madras Repealing and Amending Bill, 1950, be taken into consideration at once'."

* SRI R. SURYANARAYANA RAO:—"Sir, I am obliged to the Hon. Minister for answering my point anticipating my motion for reference to a Joint Select Committee. As the hon. Members of this House are aware, this is the third time when we are considering such a Bill in this House. I entirely agree that there are many obsolete enactments and the sooner they are removed from the Statute book the better for all. But apart from what the Hon. Minister has quoted, I refer him to the amendment moved to the Madras City Municipal Act (page 329 of the *Fort St. George Gazette*, dated 1st August 1950). The amendment is that in column (3) of the entry relating to section 285-A, for the words 'twenty rupees', the words 'two hundred rupees' shall be substituted. Sir, this is not a small matter. This is one which has to be looked into carefully. Another amendment there is, that in

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Schedule VIII, in column (3) of the entry relating to section 285-A, for the words 'two hundred rupees' the words 'twenty rupees' shall be substituted. Only these things struck me and I immediately thought that it would be better to refer the Bill to a Joint Select Committee. (The Hon. Sri K. Madhava Menon: 'It relates to fines'.) Whether it is fine, licence fee, or anything else, it will not take more than an hour if a few people sit together, examine the matter and once for all dispose of these alterations."

* THE HON. SRI K. MADHAVA MENON :—" The original section is very ridiculous, regarding these two hundred rupees and twenty rupees. The intention was to impose a fine of two hundred rupees for a first offence and a daily fine of twenty rupees for a continuing breach, under that section. But just the reverse was put in the section. So, as it remained, the fine for the first offence was Rs. 20 and for every day of continuation of that offence the fine was Rs. 200. This was a mistake that had crept in. So, we want it to be corrected."

* SRI R. SURYANARAYANA RAO :—" I may also tell the Hon. Minister that copies of this Bill were supplied to many Members only to-day. As soon as I got notice of it, I came to the office, obtained a copy and skipped through it. Most of the Bills were not supplied to us before they were introduced to-day. I had, therefore, no time as wanted to give notice of amendments. As there were so many alterations to be made, I thought it was curious that this error should have been allowed to exist so long. I thought that a few people, perhaps even lawyer members of both the Houses, might sit together and once for all dispose of the matter. Of course, everybody is anxious that obsolete legislation should be removed from the Statute Book and all errors should be corrected. There may be some other errors also, even commas and full-stops creeping in and giving a lot of trouble. That was the object with which I gave notice of the motion to refer the Bill to a Joint Select Committee. I am not very anxious that a Joint Select Committee should examine it. If the Hon. Minister assures me that he has gone through the Bill and that he will go through the Bill again as he has done now and given notice of two amendments himself, and see that the other mistakes that still persist in these Statutes are corrected by way of an Amending Bill, I am not anxious that it should be referred to a Joint Select Committee. I do not propose to move my amendment. All that I request the Hon. Minister is to go through and examine this matter once again and correct all errors, some obvious, some grammatical and some topographical."

* THE HON. SRI K. MADHAVA MENON :—" The former two Repealing and Re-enacting Bills that were introduced were not with reference to old obsolete Acts. A number of legislations were passed during the Advisers Regime between 1942 and 1945. They were valid only for one year after the termination of the Advisers' Regime. So, we considered which of those things should be repealed, and which should be re-enacted. In one batch, we brought the Repealing and Re-enacting Bill which was referred to a Select Committee. They considered that some of them should

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be considered and extended for another year. We have considered them and brought forward the Bill. I can assure the House that not a single amendment is in this Bill where a question of principle is involved. If any more mistakes are found out, we shall certainly rectify them."

DEPUTY CHAIRMAN :—" The question is—

' that the Madras Repealing and Amending Bill, 1950, be taken into consideration at once '."

The motion was carried.

Clauses 2, 3 and 4 and the First Schedule were put one after another and carried.

The Second Schedule.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

' that in column (4) of the Second Schedule—

(1) in the entry relating to the Madras City Land Revenue Act, 1851 (Central Act XII of 1851), for the word " Crown ", substitute the word " Government ".

(2) in the entries relating to the Madras Shops and Establishments Act, 1947 (Madras Act XXXVI of 1947), for item (i), substitute the following :—

" (i) In section 2, for clause (7), the following clause shall be substituted, namely :—

' (7) " factory ", means any premises which is a factory within the meaning of the Factories Act, 1948 '."

DEPUTY CHAIRMAN :—" The motion is—

' that in column (4) of the Second Schedule—

(1) in the entry relating to the Madras City Land Revenue Act, 1851 (Central Act XII of 1851), for the word " Crown ", substitute the word " Government ".

(2) in the entries relating to the Madras Shops and Establishments Act, 1947 (Madras Act XXXVI of 1947), for item (i), substitute the following :—

" (i) In section 2, for clause (7), the following clause shall be substituted, namely :—

' (7) " factory ", means any premises which is a factory within the meaning of the Factories Act, 1948 '."

The amendments were carried.

The Second Schedule as amended was put and carried.

Clause 1 was put and carried.

The preamble was put and carried.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

' that the Madras Repealing and Amending Bill, 1950, as amended, be passed '."

DEPUTY CHAIRMAN :—" The motion is—

' that the Madras Repealing and Amending Bill, 1950, as amended, be passed '."

The motion was carried.

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(8) THE MADRAS MAINTENANCE OF PUBLIC ORDER (AMENDMENT) BILL, 1950 (NOT INTRODUCED)

THE HON. SRI K. MADHAVA MENON :—“ Sir, I do not propose to introduce the Madras Maintenance of Public Order (Amendment) Bill, 1950, to-day. It may be passed over.”

DEPUTY CHAIRMAN :—“ Item II (9) in the agenda, viz., the Madras Maintenance of Public Order (Amendment) Bill, 1950, is passed over. Then we take up the next Bill on the agenda.”

(9) THE MADRAS LEGISLATURE (PROHIBITION OF SIMULTANEOUS MEMBERSHIP) BILL, 1950.

THE HON. SRI B. GOPALA REDDI :—“ Sir, I introduce the Madras Legislature (Prohibition of Simultaneous Membership) Bill a, 1950, and move—

‘ that the Bill be taken into consideration at once.’

Article 190 (1) of the Constitution reads as follows :—

‘ No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.’

I am bringing this Bill under this Article. If a Member who is a Member of the Second Chamber or the Legislative Council is elected to the Assembly or *vice versa*, what should happen? All these things are governed by this Bill. What happens if a Member is elected both to the Union Parliament and to this House is governed by Article 101? It is already laid down in the Constitution. So, we need not trouble ourselves with what would happen to such persons. If a person is a Member of a Council and if he is elected to the Assembly and *vice versa* or if he is simultaneously elected to both the Assembly and to the Council, what will happen? That is covered by this Bill.

“ It is fortunate that our State is going to have a bicameral Legislature. That is governed by Article 168 of the Constitution which says that Madras shall have a Legislative Council also. I may recall to the Members that the Joint Select Committee Report published in 1934 or 1935 originally did not provide for a Second Chamber for Madras. But on representations made by certain parties here or I do not know whether it was on a specific Resolution of the House, a Second Chamber was provided for Madras ultimately in the Government of India Act, 1935 and we have been functioning since 1937 with a Second Chamber. In the new Constitution also, our Constitution framers have thought it right that Madras should be one of the States where a Legislative Council is also provided. That is the view of the Government also. It is appropriate that this Bill should be introduced first in the Upper House because it affects the bicameral Chamber. It is proper that the Upper House is considering it first. After it is passed, it will go to the Assembly. I suppose it is too late in the day to go into the question whether we should have a Second Chamber or not. I do not think this is the time for it because it is already provided in the Constitution that Madras shall have a Second Chamber. Hereafter, of course, the Union Parliament can legislate on the

THE MADRAS LEGISLATURE (PROHIBITION OF SIMULTANEOUS 295
MEMBERSHIP) BILL, 1950

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recommendations of the Assembly whether the Legislative Council should continue or not. That will come a little later. But as far as we are concerned to-day, it is presumed that we will have two Chambers and we must provide under Article 190 what should happen if a person is elected to both the Chambers. I think this is a non-controversial Bill and we need not go into the entire question of Second Chambers and whether they are useful or not. I request that this Bill may be taken into consideration at once."

DEPUTY CHAIRMAN :—" The question is—

' that the Madras Legislature (Prohibition of Simultaneous Membership) Bill, 1950, be taken into consideration '."

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The motion was carried.

Clauses 2, 3 and 4 were separately put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI B. GOPALA REDDI :—" Sir, I move—

' that the Madras Legislature (Prohibition of Simultaneous Membership) Bill, 1950, be passed '."

DEPUTY CHAIRMAN :—" The question is—

' that the Madras Legislature (Prohibition of Simultaneous Membership) Bill, 1950, be passed '."

The motion was carried.

I now adjourn the House to meet again at 2-30 p.m. on Saturday, the 2nd September 1950.

The House then adjourned.

வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

[31st August 1950]

APPENDIX I.

[Vide answer to starred question No. 17 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on the 31st August 1950, pages 234-235 supra.]

His Excellency the Governor of Madras is pleased to sanction, subject to the conditions specified below, the grant of a loan of Rs. 1,00,000 (Rupees one lakh only) to Messrs. Mohan Industries, Limited, Sarala Nagar, Tenali, for starting a business for the manufacture of bricks, tiles, pipes, pottery, earthenware, China and ceramic wares and for undertaking at a later stage, the manufacture of biscuit and confectionary as an additional line.

2. The conditions are—

(a) Messrs. Mohan Industries, Ltd., Tenali, shall execute a mortgage deed hypothecating to the Government as security for the due repayment of the loan with interest,

(i) the assets of the Company free of all encumbrances, and

(ii) the additional assets to be acquired by the Company with the loan now sanctioned.

The Directors of the Company who are also partners of the Managing Agents of the Company should, in addition to the assets offered by the Company, execute personal security bonds guaranteeing the repayment of the loan.

The Director of Industries and Commerce should be satisfied that the immovable assets offered as security are free of all encumbrances.

(b) The entire proceeds of the loan shall be utilized for the manufacture of tiles, bricks and other materials mentioned in paragraph 1 above.

(c) If it shall be proved, to the satisfaction of the Government that the loan sanctioned has not been fully applied for the purpose for which it is granted, the balance of the loan, or such portion of it as the Government may determine, with interest and costs, if any, shall be recovered as provided for in section 18 of the Madras State Aid to Industries Act, 1922 (Madras Act V of 1923).

(d) The loan will bear interest at 5 per cent per annum and shall be repaid in ten annual instalments of Rs. 12,951 each, the first instalment being repaid on 1st June 1950 and the subsequent instalments on the 1st of June of every following year until the loan with interest has been repaid. For the period in excess of twelve months intervening between the date of disbursement of the loan and 1st June 1950, simple interest on the whole amount shall be paid with the first annual instalment.

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(e) On every instalment of the loan which is not paid on the due date, additional interest at $7\frac{1}{2}$ per cent shall be levied as penalty up to the date of its repayment.

(f) The annual instalment of the loan shall be paid at the nearest Government Treasury to the credit of the Government.

(g) And the borrower shall abide by all the provisions of the Madras State Aid to Industries Act, 1922 (Madras Act V of 1923) and the rules framed thereunder.

3. The loan will be disbursed in one instalment on the execution of the mortgage deed referred to above.

4. The expenditure on account of the disbursement of the loan shall be debited to "Loans and advances bearing interest—Advances under special laws (State Aid to Industries)—Advances made by the Director of Industries and Commerce". The Director is requested to apply for additional appropriation of funds in due course, if necessary. The Accountant-General is authorized to admit the expenditure in audit pending the provision of funds.

APPENDIX II.

[Vide answer to unstarred question No. 2 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on the 31st August 1950, pages 239-242 supra.]

Distribution of ammonium sulphate through the agricultural depots.

Name of the district.	1946-47.	1947-48.	1948-49.	1949-50.
	TONS.	TONS.	TONS.	TONS.
1 North Visakhapatnam.	320	660	700	854
2 South Visakhapatnam.	180	629	500	828
3 East Godavari ..	1,240	1,720	2,445	1,661
4 West Godavari ..	1,435	1,360	1,465	2,198
5 Krishna ..	460	1,060	873	954
6 Guntur ..	1,626	1,440	850	3,189
7 Kurnool ..	100	230	350	80
8 Bellary ..	355	480	800	Nil.
9 Anantapur ..	400	394	280	239
10 Cuddapah ..	416	692	1,285	1,172
11 Nellore ..	1,233	620	1,910	683
12 Chingleput ..	1,880	1,530	1,310	1,597
13 South Arcot ..	1,772	988	2,000	1,652
14 Chittoor ..	666	470	920	479
15 North Arcot ..	1,148	800	2,495	1,790
16 Salem ..	573	1,352	440	913
17 Coimbatore ..	1,519	1,434	890	1,534
18 Tiruchirappalli ..	2,107	3,041	773	1,556
19 Tanjore ..	1,842	2,696	950	923

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Name of the district.	1946-47.	1947-48.	1948-49.	1949-50.
	TONS.	TONS.	TONS.	TONS.
20 Pattukottai	481	559	464	1,697
21 Mathurai	1,457	1,595	1,090	609
22 Ramanathapuram ..	597	1,053	2,150	300
23 Tirunelveli	1,270	1,050	1,110	..
24 Malabar	510	2,090	20	340
25 South Kanara	123	260	175	510
26 The Nilgiris	Nil.	5	35	Nil.
	<u>23,710</u>	<u>28,208</u>	<u>26,280</u>	<u>25,758</u>

APPENDIX III.

[Vide answer to unstarred question No. 2 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on the 31st August 1950, pages 239-242 supra.]

Quantities of sulphate of ammonia and super-phosphate allotted to Madras State during 1950 and the target fixed for each district.

Name of the district.	Sale as straight fertilizer.	
	Ammonium sulphate.	Super-phosphate.
(1)	(2)	(3)
	TONS.	TONS.
1 North Visakhapatnam	1,693	234
2 South Visakhapatnam	1,692	234
3 East Godavari	6,250	938
4 West Godavari	6,375	938
5 Krishna	2,875	469
6 Guntur	8,300	1,172
7 Kurnool	650	94
8 Bellary	1,685	234
9 Anantapur	1,000	140
10 Cuddapah	4,675	703
11 Nellore	2,75	375
12 Chingleput	7,100	1,078
13 South Arcot	3,000	469
14 Chittoor	1,215	188
15 North Arcot	3,950	609
16 Salem	3,000	469
17 Coimbatore	8,310	1,172
18 Tiruchirappalli	14,750	2,344
19 Tanjore	6,115	937
20 Pattukkottai		
21 Mathurai	4,025	609

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Name of the district. (1)	Sale as straight fertilizer.	
	Ammonium sulphate.	Super-phosphate.
	(2) TONS.	(3) TONS.
22 Ramanathapuram	3,310	469
23 Tirunelveli	4,200	609
24 Malabar	2,675	422
25 South Kanara	565	94
26 The Nilgiris	15	Nil.
Total ..	160,000	15,000
Manuring mixing firms for incorporation in manure mixtures	34,000	18,900
	134,000	33,900

APPENDIX IV.

[Vide answer to unstarred question No. 3 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on the 31st August 1950, page 242 supra.]

G.O. Ms. No. 2366, Public (Services), dated 22nd September 1948.

[Public Services—Madras General Service (Class IX—Assistant Secretaries to Government) and Madras Secretariat Service—Departments of the Secretariat to be treated as one single unit for purposes of promotion, confirmation, etc.—Proposal dropped.]

Order—No. 2366, Public (Services), dated 22nd September 1948.

Under rule 5 of the special rules for Class IX (Assistant Secretaries to Government) of the Madras General Service and rule 14 of the Madras Secretariat Service Rules, each department of the Secretariat is treated as a separate unit for purposes of first appointment, discharge for want of vacancies, re-appointment of approved probationers and probationers, confirmations and promotion. Representations were made to Government that this provision in the rules has resulted in unequal promotion in the departments of the Secretariat thereby causing heart-burning and discontentment to senior members of the staff and that in the interest of efficiency and justice the disparity should be removed by treating all departments of the Secretariat as a single unit for the purposes mentioned above. The Government after consulting the Retrenchment and Reorganization Committee and examining the case carefully in all its aspects have come to the conclusion that no change in the existing position is called for at present.

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APPENDIX V.

[Vide item V on page 245 supra.]

L.A. BILL No. 19 OF 1950.

(As passed by the Assembly.)

A Bill to amend the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1949.

WHEREAS it is expedient to amend the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1949, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Essential Articles Control and Requisitioning (Temporary Powers) Amendment Act, 1950.

Amendment
of section 1,
Madras Act
XXIX of
1949.

2. In section 1, sub-section (3) of the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1949 (hereinafter referred to as the said Act), for the words, figures and letters "up to and inclusive of the 30th September 1950", the words, figures and letters "up to and inclusive of the 30th September 1951" shall be substituted.

Madras Act
XXIX of
1949.

Madras Act
XXIX of
1949.

Amendment
of section 5,
Madras Act
XXIX of
1949.

3. In section 5 of the said Act—

(i) sub-section (1) shall be omitted, and sub-sections (2) and (3) shall be renumbered as sub-sections (1) and (2) respectively;

(ii) in sub-section (1) as so renumbered—

(a) in the opening paragraph, for the words "immovable property", the words "movable or immovable property" shall be substituted;

(b) in clause (b), after the words "over the area", the words "in which the movable property is requisitioned or acquired or" shall be inserted;

(c) for clause (d), the following clause shall be substituted, namely :—

"(d) The arbitrator in making his award shall have regard—

(i) in the case of movable property, to its market value;

(ii) in the case of immovable property, to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable and to the fact whether the acquisition is of a permanent or temporary character :

Central Act
I of 1894.

Provided that where any property requisitioned is subsequently acquired, the arbitrator, in any proceedings in connexion with such acquisition shall, for the purposes

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of this clause, take into consideration the market value of the property at the date of the requisition as aforesaid and not at the date of its subsequent acquisition."

4. The provisions of section 5 of the said Act, as amended by section 3 of this Act, shall apply where a claim for compensation is outstanding or in dispute at the commencement of this Act, in a case where movable property has been requisitioned or acquired on or after the 26th January 1950.

Section 3 to apply to pending cases.

D. K. V. RAGHAVA VARMA,
Secretary to the Legislative Assembly.

APPENDIX VI.

[Vide item VII (1) on page 255 supra.]

L.A. BILL No. 20 OF 1950.

(As passed by the Assembly.)

A Bill to amend the Madras Entertainments Tax (Amendment) Act, 1949.

Madras Act
XVII of
1949.

WHEREAS it is expedient to amend the Madras Entertainments Tax (Amendment) Act, 1949, for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Madras Entertainments Tax (Amendment) Act, 1950. Short title.

Madras Act
XVII of
1949.

2. In section 1 of the Madras Entertainments Tax (Amendment) Act 1949, after sub-section (2), the following sub-section shall be added, namely :—

Amendment of section 1, Madras Act XVII of 1949.

‘ (3) This Act shall cease to be in force on the expiry of four years from the date notified under sub-section (2) :

Madras Act
I of 1891.

Provided that section 8 of the Madras General Clauses Act, 1891, shall apply upon the expiry of this Act as if it had then been repealed by a Madras Act.

3. The Madras Entertainments Tax (Amendment) Ordinance, 1950, is hereby repealed. Repeal.

Madras
Ordinance
I of 1950.

D. K. V. RAGHAVA VARMA,
Secretary to the Legislative Assembly.

I certify that this is a Money Bill.

J. SIVASHANMUKHAM PILLAI,
Speaker.

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APPENDIX VII.

[Vide item VII (2) on page 259 supra.]

L.A. BILL No. 21 OF 1950.

(As passed by the Assembly.)

A Bill to provide for the establishment of a Contingency Fund for the State of Madras.

WHEREAS Article 267, clause (2), of the Constitution, provides that the Legislature of a State may by law establish a Contingency Fund in the nature of an imprest ;

AND WHEREAS it is expedient to establish such a Contingency Fund for the State of Madras ; It is hereby enacted as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Madras Contingency Fund Act, 1950.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force at once.

Establish-
ment of a
Contingency
Fund.

2. (1) There shall be established for the State of Madras a Contingency Fund in the nature of an imprest, called " the Contingency Fund of the State of Madras ", and consisting of a sum of one crore of rupees withdrawn from the Revenue Reserve Fund of the State.

(2) Such Contingency Fund shall be at the disposal of the Governor of Madras ; and he shall have authority to make advances therefrom for the purpose of meeting any unforeseen expenditure, pending authorization of such expenditure by the State Legislature by law under Article 205 or Article 206 of the Constitution.

(3) As often as any such expenditure is authorized by law as aforesaid, the State Government shall recoup to the Contingency Fund an amount equal to the advance taken from such fund to meet the expenditure.

Power to
make rules.

3. The State Government may, by notification in the *Fort St. George Gazette*, make rules for the purpose of carrying into effect the provisions of this Act.

D. K. V. RAGHAVA VARMA,
Secretary to the Legislative Assembly.

I certify that this is a Money Bill.

J. SIVASHANMUKHAM PILLAI,
Speaker.

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APPENDIX VIII.

[Vide item VII (3) on page 260 supra.]

L.A. BILL No. 22 OF 1950.

(As passed by the Assembly.)

A Bill further to amend the Madras Co-operative Land Mortgage Banks Act, 1934.

Madras Act X of 1934. WHEREAS it is expedient further to amend the Madras Co-operative Land Mortgage Banks Act, 1934, for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Madras Co-operative Land Mortgage Banks (Second Amendment) Act, 1950. Short title.

Madras Act X of 1934. 2. In the Madras Co-operative Land Mortgage Banks Act, 1934, after section 32-A, the following section shall be inserted, namely :—

Insertion of new section 32-B in Madras Act X of 1934.

“ 32-B. Any mortgage bank or the Central Mortgage Bank may grant copies of any documents or entries in documents, obtained and kept by it in the course of its business, or of any entries in such document; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.”

D. K. V. RAGHAVA VARMA,
Secretary to the Legislative Assembly.

APPENDIX IX.

[Vide item VII (4) on page 261 supra.]

L.A. BILL No. 23 OF 1950.

(As passed by the Assembly.)

A Bill further to amend the Madras Agriculturists Relief Act, 1938.

Madras Act IV of 1938. WHEREAS it is expedient further to amend the Madras Agriculturists Relief Act, 1938, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Madras Agriculturists Relief (Amendment) Act, 1950. Short title.

Madras Act IV of 1938. 2. In section 8 of the Madras Agriculturists Relief Act, 1938 (hereinafter referred to as the said Act)—

Amendment of section 8, Madras Act IV of 1938.

(a) in Explanation III, for the words “ whether by the same or a different debtor and whether in favour of the same or a different creditor”, the words “ whether by the same debtor or by his heirs, legal representatives or assigns or by any other person acting on his behalf or in his interest and

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whether in favour of the same creditor or of any other person acting on his behalf or in his interest" shall be substituted ;

(b) after Explanation III, the following Explanation shall be added, namely :—

" *Explanation IV.*—Where a debt has been split up, whether before or after the commencement of this Act, among the heirs, legal representatives or assigns of a debtor or of a creditor and fresh documents have been executed in respect of the different portions of such debt, the provisions of this section shall continue to apply in respect of each of the different portions."

Amendment
of section 9,
Madras Act
IV of 1938.

3. In section 9 of the said Act—

(a) in the proviso to clause (1), for the words " whether by the same or a different debtor and whether in favour of the same or a different creditor ", the words " whether by the same debtor or by his heirs, legal representatives or assigns or by any other person acting on his behalf or in his interest and whether in favour of the same creditor or of any other person acting on his behalf or in his interest " shall be substituted ;

(b) after the proviso aforesaid, the following proviso shall be added, namely :—

" Provided further that where a debt has been split up, whether before or after the commencement of this Act, among the heirs, legal representatives or assigns of a debtor or of a creditor and fresh documents have been executed in respect of the different portions of such debt, the provisions of this section shall continue to apply in respect of each of the different portions."

Substitution
of new
section for
section 9-A,
Madras Act
IV of 1938.

4. For section 9-A of the said Act, the following section shall be substituted, namely :—

Special
provision
in respect of
usufructu-
ary mort-
gages.

" 9-A. (1) This section applies to all mortgages executed at any time before the 30th September 1947, and by virtue of which the mortgagee is in possession of the property mortgaged to him or any portion thereof—

(a) where no rate of interest is stipulated for as due to the mortgagee, or

(b) where a rate of interest is stipulated for as due to the mortgagee in respect of the principal amount secured by the mortgage or any portion thereof, in addition to the usufruct from the property, or in respect of any other sum payable to the mortgagee by the mortgagor in his capacity as such.

Explanation.—A mortgagee shall be deemed to be in possession of the property mortgaged to him or any portion thereof, notwithstanding that he has leased it to the mortgagor or any other person.

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(2) The mortgagor shall be entitled to redeem the whole of the property mortgaged, notwithstanding that the time, if any, fixed in the mortgage deed for redeeming the mortgage has not arrived.

(3) Where the mortgagee has been in possession of the whole of the property mortgaged to him for an aggregate period of less than thirty years, the mortgagor shall not be entitled to redeem the mortgage, unless he pays to the mortgagee—

(i) the difference between the principal amount secured by the mortgage and an amount bearing to the principal amount the same proportion as the period during which the mortgagee has been in possession bears to thirty years ;

(ii) where any interest on the principal amount secured by the mortgage or any portion thereof has been stipulated for, in addition to the usufruct from the property, the arrears of such interest as scaled down under section 8 or 9 read with section 12, or under section 13, as the case may be ; and

(iii) all other sums payable to the mortgagee by the mortgagor in his capacity as such, together with the interest, if any, due thereon.

(4) Where the mortgagee has been in possession of only a portion of the property mortgaged to him for an aggregate period of less than thirty years, the mortgagor shall not be entitled to redeem the mortgage, unless he pays to the mortgagee—

(i) the difference between the portion of that principal amount secured by the mortgage which is attributable to the portion of the property in the possession of the mortgagee and an amount bearing to that portion of the principal amount the same proportion as the period during which the mortgagee has been in possession bears to thirty years ;

(ii) where any interest has been stipulated for, in addition to the usufruct from the property, the arrears of interest on the portion of the principal amount referred to in clause (i), such arrears being scaled down under section 8 or 9 read with section 12, or under section 13, as the case may be ;

(iii) the balance of the debt as scaled down under section 8 or 9 read with section 12, or under section 13, as the case may be ; and

(iv) all other sums payable to the mortgagee by the mortgagor in his capacity as such, together with the interest, if any, due thereon.

(5) (a) Where the mortgagee has been in possession of the whole of the property mortgaged to him for an aggregate period of thirty years or more, then, notwithstanding anything

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contained in sections 8, 9, 12 and 13, the mortgage debt shall be deemed to have been wholly discharged with effect from the expiry of the period of thirty years or where such period expired before the commencement of the Madras Agriculturists Relief (Amendment) Act, 1948, with effect from the commencement of that Act—

Madras
XXIII
1948, Act
of

(i) if no interest has been stipulated for on the principal amount secured by the mortgage or any portion thereof, in addition to the usufruct from the property ;

(ii) where such interest has been stipulated for, if no arrears of interest are due from the mortgagor ; and

(iii) if no other sums or interest thereon are due to the mortgagee by the mortgagor in his capacity as such.

(b) Where the mortgagee has been in possession of the whole of the property mortgaged to him for an aggregate period of thirty years or more, then, in cases not governed by clause (a), the mortgagor shall not be entitled to redeem the mortgage unless he pays to the mortgagee—

(i) the arrears of interest stipulated for in addition to the usufruct from the property, as scaled down under section 8 or 9 read with section 12, or under section 13, as the case may be ; and

(ii) all other sums due to the mortgagee by the mortgagor in his capacity as such and referred to in sub-clause (iii) of clause (a) together with any interest due thereon.

(6) Where the mortgagee has been in possession of only a portion of the property mortgaged to him for an aggregate period of thirty years or more, the mortgagor shall not be entitled to redeem the mortgage unless he pays to the mortgagee—

(i) where, in addition to the usufruct from the property, any interest has been stipulated for, the arrears of interest on that portion of the principal amount secured by the mortgage which is attributable to the portion of the property in the possession of the mortgagee, such arrears being scaled down under section 8 or 9 read with section 12, or under section 13, as the case may be ;

(ii) the balance of the debt not attributable to such portion of the property as scaled down under section 8 or 9 read with section 12, or under section 13, as the case may be ; and

(iii) all other sums payable to the mortgagee by the mortgagor in his capacity as such, together with the interest, if any, due thereon.

(7) For the purposes of this section, the portion of the principal amount secured by the mortgage which is attributable to the portion of the property in the possession of the mortgagee shall be determined in the manner prescribed by rules made under this Act.

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(8) The mortgagor shall not be entitled to redeem a mortgage under sub-section (2) or obtain possession of the mortgaged property by virtue of sub-section (5) (a), unless he pays to the mortgagee the cost of the improvements, if any, effected by him to the mortgaged property.

(9) (a) (i) Except in cases falling under sub-section (5) (a), where the mortgaged property or, as the case may be, the portion thereof in the possession of the mortgagee has been leased back to the mortgagor by the mortgagee, the rent due to the mortgagee under the lease (after deducting from such rent any revenue, tax or cess paid or payable by mortgagee in respect of the property) shall be deemed to be the interest on the mortgage debt or the portion thereof attributable to the portion of the property aforesaid and the provisions of section 8 or 9 read with section 12, or of section 13, as the case may be, shall apply to the entire debt.

(ii) Nothing contained in sub-section (3) or sub-section (4) shall apply to any debt falling under sub-clause (i).

(b) In cases falling under sub-section (5) (a), where the property has been leased back to the mortgagor by the mortgagee, nothing contained in that sub-section shall affect the right of the mortgagee to recover any rents due to him under the lease for any period before the date on which the mortgage debt is deemed to have been wholly discharged by virtue of that sub-section, if such rents have not become barred by limitation under any law for the time being in force.

(10) Nothing contained in this section, except sub-sections (1) and (2), shall apply to any mortgage—

(i) in respect of property situated in the South Kanara district or in the taluks of Chirakkal, Kottayam, Kurumbranad and Wynaad in the Malabar district ;

(ii) in respect of property situated in any other area in the cases mentioned below :—

(a) Where during the period after the 30th September 1937 and before the 30th January 1943, the equity of redemption in the property subject to the mortgage has devolved either wholly or in part on a person, by or through a transfer *inter vivos* either from the original mortgagor or from a person deriving title from or through such mortgagor otherwise than by a transfer *inter vivos*, then, to the whole or such part, as the case may be.

(b) Where, during the period aforesaid, the mortgagee or any of his successors-in-interest has transferred either wholly or in part the mortgagee's rights in the property *bona fide* and for valuable consideration, then, to the whole or such parts, as the case may be :

Provided that the transferee of a mortgage shall not be entitled to recover in respect of such mortgage, anything more than the value of the consideration for the transfer ; but nothing herein contained shall, in cases where the property

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or portion thereof has been leased back to the mortgagor, affect the right of the transferee to recover the rents, if any, due under the lease, if such rents have not become barred by limitation under any law for the time being in force.

(c) Where the mortgagee's interest in the property subject to the mortgage or any part of such interest belonged to, or devolved on, two or more persons and during the period aforesaid, a partition has taken place among such persons, then, to the whole or such part of the interest, as the case may be.

(11) Where the equity of redemption in the property subject to the mortgage belonged to, or devolved on, two or more persons and any one of them or any person claiming under any one of them has, during the period referred to in sub-section (10), clause (ii) (a), redeemed the entire mortgage, nothing contained in this section shall affect the rights or the reliefs to which the person redeeming the mortgage might be entitled to under any other law for the time being in force as against the other persons aforesaid."

Amendment
of section
10, Madras
Act IV of
1938.

5. In section 10, sub-section (2), of the said Act, for clause (i), the following clause shall be substituted, namely:—

"(i) any mortgage of the description referred to in sub-section (1) of section 9-A, except to the extent provided for in that section;".

Insertion of
new section
23-B in
Madras Act
IV of 1938.

6. After section 23-A of the said Act, the following section shall be inserted, namely:—

Modifications
in the appli-
cation of
section 23-A
to certain
cases.

"23-B. The provisions of section 23-A shall apply to a judgment-debtor claiming to be entitled to the benefits of the Madras Agriculturists Relief (Amendment) Act, 1950, subject to the modification that for the reference to the Madras Agriculturists Relief (Amendment) Act, 1948, a reference to the Madras Agriculturists Relief (Amendment) Act, 1950, and for the reference to the 30th September 1947, a reference to the 25th April 1950 shall be substituted."

Madras Act
XXIII of
1948.

Amendment
of section 24,
Madras Act
IV of 1938.

7. In section 24 of the said Act, for the words, figures and letter "section 23 or section 23-A", the words, figures and letters "section 23, section 23-A or section 23-B" shall be substituted.

Amendment
of section
25-A,
Madras Act
IV of 1938.

8. In section 25-A of the said Act, in sub-section (1), clause (e), for the words, figures and letter "section 23 or section 23-A", the words, figures and letters "section 23, section 23-A or section 23-B" shall be substituted.

Amendments
to have
retrospec-
tive effect
in certain
cases,

9. The amendments made by this Act shall apply to—

(i) all suits and proceedings instituted after the commencement of this Act;

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(ii) all suits and proceedings instituted before the commencement of this Act in which no decree or order has been passed, or in which the decree or order passed has not become final, before such commencement ;

(iii) all suits and proceedings in which the decree or order passed has not been executed or satisfied in full before the commencement of this Act:

Provided that no creditor shall be required to refund any sum which has been paid to or realized by him before the commencement of this Act.

D. K. V. RAGHAVA VARMA,
Secretary to the Legislative Assembly.

APPENDIX X.

[Vide item VII (5) on page 264 supra.]

L.A. BILL No. 24 OF 1950.

(As passed by the Assembly.)

A Bill further to amend the Madras City Municipal Act, 1919.

Madras Act IV of 1919. WHEREAS it is expedient further to amend the Madras City Municipal Act, 1919, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Madras City Municipal Short title. (Amendment) Act, 1950.

Madras Act IV of 1919. 2. In the Madras City Municipal Act, 1919—

(i) to section 116, the following sub-section shall be added, namely :—

“(3) Four-ninths of the proceeds of the tax on tram-cars levied under this section every half-year shall be paid to the State Government ;” ;

(ii) in rule 10 of Schedule IV, for the figures “ 100 ”, occurring against the entry “ For every tram-car,” the figures “ 900 ” shall be substituted.

Amendment of Madras Act IV of 1919.

D. K. V. RAGHAVA VARMA,
Secretary to the Legislative Assembly.

I certify that this is a Money Bill.

J. SIVASHANMUKHAM PILLAI,
Speaker.

